

1989 No. 361 (S. 37)

**SOCIAL SECURITY**

**The Housing Benefit (Community Charge Rebates)  
(Scotland) Amendment Regulations 1989**

<i>Made</i> - - - -	<i>7th March 1989</i>
<i>Laid before Parliament</i>	<i>10th March 1989</i>
<i>Coming into force</i>	
<i>(a) for the purposes of regulations 16(a), (b)(i)     and (c) and 17</i>	<i>9th October 1989</i>
<i>(b) for all other purposes</i>	<i>1st April 1989</i>

The Secretary of State for Social Security in exercise of powers conferred by sections 22(1), (5), (8), (8A) and (9), 29(1) to (3), 31(1), 51(1)(b) and section 84(1) of the Social Security Act 1986 (a) and section 166(1) to (3A) of the Social Security Act 1975 (b) and of all other powers enabling him in that behalf, after consultations with organisations appearing to him to be representative of the authorities concerned (c) and after agreement by the Social Security Advisory Committee that proposals to make these Regulations in so far as they are made under the powers in section 51(1) of the Social Security Act 1986 should not be referred to it (d), by this instrument, which is otherwise made before the end of a period of 12 months from the commencement of the enactments under which it is made, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Housing Benefit (Community Charge Rebates) (Scotland) Amendment Regulations 1989 and shall come into force—

- (a) for the purposes of regulations 16(a), (b)(i) and (c) and 17 on 9th October 1989;
- (b) for all other purposes on 1st April 1989.

(2) In these Regulations “the principal Regulations” means the Housing Benefit (Community Charge Rebates) (Scotland) Regulations 1988 (e).

**Amendment of regulation 1 of the principal Regulations**

2. In regulation 1(2)(a) of the principal Regulations (citation, commencement and application) for the words “paragraph 28” there shall be substituted the words “paragraphs 28 and 34”.

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(a) 1986 c.50; Part II of the Social Security Act 1986 was modified so as to extend to housing benefit in the form of community charge rebates by the Housing Benefit (Social Security Act 1986 Modifications) (Scotland) Regulations 1988 (S.I. 1988/1483); section 22 was amended by the Local Government Finance Act 1988 (c.41), Schedule 10, paragraph 4 and section 84(1) is cited because of the meaning assigned to the words “prescribed” and “regulations”.

(b) 1975 c.14; section 166(3A) was inserted by section 62 of the Social Security Act 1986 and section 166(1) to (3A) is applied by section 83(1) of that Act.

(c) See section 61(7) of the Social Security Act 1986.

(d) See section 10(2)(b) of the Social Security Act 1980 (c.30); section 10 was amended by paragraph 98 of Schedule 10 to the Social Security Act 1986.

(e) S.I. 1988/1890.

#### **Amendment of regulation 11 of the principal Regulations**

3. In regulation 11(2) of the principal Regulations (calculation of income on a weekly basis) for the words "regulations 17(3)" to the end of that regulation there shall be substituted the words "regulations 24 and 25 (capital treated as income and notional income)".

#### **Amendment of regulation 14 of the principal Regulations**

4. In regulation 14(1) of the principal Regulations (average weekly income other than earnings) the words "or regulation 17(4) (weekly amounts of charitable or voluntary payments)" shall be omitted.

#### **Omission of regulation 17 of the principal Regulations**

5. Regulation 17 of the principal Regulations (treatment of charitable or voluntary payments) shall be omitted.

#### **Amendment of regulation 23 of the principal Regulations**

6. In regulation 23(1) of the principal Regulations (calculation of income other than earnings) for the words "regulations 17(3) and 24 (charitable or voluntary payments and capital treated as income)" there shall be substituted the words "regulation 24 (capital treated as income)".

#### **Amendment of regulation 25 of the principal Regulations**

7. In regulation 25(3)(b) of the principal Regulations (notional income) after the words "as the case may be," there shall be inserted the word "that".

#### **Amendment of regulation 28 of the principal Regulations**

8. In regulation 28(1) of the principal Regulations (calculation of capital) for the words "regulations 17(2) and 30 (treatment of charitable or voluntary payments and income treated as capital)" there shall be substituted the words "under regulation 30 (income treated as capital)".

#### **Amendment of regulation 33 of the principal Regulations**

9. In regulation 33(3)(b) of the principal Regulations (notional capital)-
- (a) for the words "another member of the family" there shall be substituted the words "another member of that family";
  - (b) for the words from "member to the extent" to the end there shall be substituted the words "that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family."

#### **Amendment of regulation 34 of the principal Regulations**

10. In regulation 34 of the principal Regulations (capital jointly held) at the end there shall be added the words "and the foregoing provisions of this Chapter shall apply for the purposes of calculating the amount of capital which the claimant is treated as possessing as if it were actual capital which the claimant does possess."

#### **Amendment of regulation 35 of the principal Regulations**

11. In regulation 35(3) of the principal Regulations (calculation of tariff income from capital) for the words "regulations 17(2) and 30 (charitable or voluntary payments and income treated as capital)" there shall be substituted the words "regulation 30 (income treated as capital)".

#### **Amendment of regulation 43 of the principal Regulations**

12. In regulation 43 of the principal Regulations (disregard of contribution and rent)-
- (a) in paragraph (2) at the beginning there shall be inserted the words "Where the student or his partner pays rent" and for the words "any amount by which his

rent is reduced for the purposes of regulation 51(1)" there shall be substituted the words "the amount specified in regulation 51(1)(b)";

(b) after paragraph (2) the following paragraph shall be added—

"(3) In this regulation "rent" includes all those payments in respect of a dwelling which are specified in regulation 10(1) of the Housing Benefit (General) Regulations 1987."

#### **Amendment of regulation 55 of the principal Regulations**

13. In regulation 55(2) of the principal Regulations (date on which change of circumstances is to take effect) for the words "community charge of" there shall be substituted "community charge or".

#### **Amendment of regulation 59 of the principal Regulations**

14. In regulation 59 of the principal Regulations (time and manner in which claims are to be made) there shall be inserted the following paragraph after paragraph (2)—

"(2A) Where—

- (a) a person is liable for a personal community charge from 1st April 1989, and
- (b) a claim for housing benefit in respect of that charge is received by the designated office of the appropriate authority either not more than 56 days after the day on which the claimant receives his first community charge demand notice issued in respect of that charge in accordance with paragraph 2 of Schedule 2 to the 1987 Act (a) or, not more than 56 days after 1st April 1989, whichever is the later, 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 housing benefit shall be treated as having been made on 1st April 1989."

#### **Amendment of regulation 90 of the principal Regulations**

15. In regulation 90(3) of the principal Regulations (exchange of information) for the words "the name" there shall be substituted the words "the name, date of birth."

#### **Amendment of Schedule 1 to the principal Regulations**

16. In Schedule 1 to the principal Regulations (applicable amounts)—

(a) for paragraph 9 there shall be substituted the following paragraphs—

##### **"Pensioner premium for persons under 75**

9. The condition is that the claimant—

- (a) is a single claimant or lone parent aged not less than 60 but less than 75;  
or
- (b) has a partner and is, or his partner is, aged not less than 60 but less than 75.

##### **Pensioner premium for persons 75 and over**

9A. The condition is that the claimant—

- (a) is a single claimant or lone parent aged not less than 75 but less than 80;  
or
- (b) has a partner and is, or his partner is, aged not less than 75 but less than 80."

(b) in paragraph 12—

- (i) in sub-paragraph (1)(a)(ii) for the words "solely on account of the maximum age for its payment being reached" there shall be substituted the words "either on account of the maximum age for this payment being reached or the payment of a retirement pension under the Social Security Act",

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(a) 1987 c.47; Schedule 2, paragraph 2 was amended by the Local Government Finance Act 1988 (c.41), Schedule 12, paragraph 36(2).

- (ii) in sub-paragraph (1)(a)(iii) the words "except where paragraph (1)(a), (b), (c)(ii) or (d)(ii) of regulation 9 (patients) applies," shall be inserted before the words "was in receipt of";
- (iii) after sub-paragraph (4) there shall be added the following sub-paragraph—  
 "(5) For the purposes of sub-paragraph (1)(b), once the disability premium is applicable to a claimant by virtue of his satisfying the additional condition specified in that provision, he shall continue to be treated as satisfying that condition for any period spent by him in undertaking a course of training provided under section 2 of the Employment and Training Act 1973(a).";
- (c) in paragraph 16(b)—
  - (i) for sub-paragraph (2) there shall be substituted the following sub-paragraphs—
    - "(2) Pensioner premium for persons under 75—
      - (a) where the claimant satisfies the condition in paragraph 9(a); (2)(a) £11.20;
      - (b) where the claimant satisfies the condition in paragraph 9(b); (b) £17.05;
    - (2A) Pensioner premium for persons 75 and over—
      - (a) where the claimant satisfies the condition in paragraph 9A(a); (2A)(a) £13.70;
      - (b) where the claimant satisfies the condition in paragraph 9A(b);" (b) £20.55;
  - (ii) in sub-paragraph (3) for "£13.70" and "£19.50" there shall be substituted "£16.20" and "£23.00" respectively.

#### **Amendment of Schedule 2 to the principal Regulations**

17. For paragraph 3 of Schedule 2 to the principal Regulations (sums to be disregarded in the calculation of earnings) there shall be substituted the following paragraph—

- "3.—(1) In a case to which this paragraph applies, £15; but notwithstanding regulation 10 (calculation of income and capital of members of a claimant's family and of a polygamous marriage) if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £15.
- (2) This paragraph applies where the claimant's applicable amount includes an amount by way of the disability premium or severe disability premium under Schedule 1 (applicable amounts).
- (3) This paragraph applies where—
- (a) the claimant is a member of a couple and his applicable amount would, but for the higher pensioner premium under Schedule 1 being applicable, include an amount by way of the disability premium under that Schedule; and
  - (b) he or his partner is under the age of 60 and at least one is engaged in employment.
- (4) This paragraph applies where—
- (a) the claimant's applicable amount includes an amount by way of the higher pensioner premium under Schedule 1; and
  - (b) the claimant or, if he is a member of a couple, either he or his partner has attained the age of 60; and
  - (c) immediately before attaining that age he or, as the case may be, he or his partner was engaged in employment and the claimant was entitled by virtue of sub-paragraph (2) to a disregard of £15; and
  - (d) he or, if he is a member of a couple, he or his partner has continued in employment.

(a) 1973 c.50; section 2 was substituted by the Employment Act 1988 (c.19), section 25.

(b) Paragraph 16 was amended by S.I. 1989/43.

(5) This paragraph applies where—

- (a) the claimant is a member of a couple and his applicable amount would include an amount by way of the disability premium under that Schedule, but for—
  - (i) the pensioner premium for persons aged 75 and over under Schedule 1 being applicable, or
  - (ii) the higher pensioner premium under that Schedule being applicable; and
- (b) he or his partner has attained the age of 75 but is under the age of 80 and the other is under the age of 60 and at least one member of the couple is engaged in employment.

(6) This paragraph applies where—

- (a) the claimant is a member of a couple and he or his partner has attained the age of 75 but is under the age of 80 and the other has attained the age of 60; and
- (b) immediately before the younger member attained that age either of them was engaged in employment and the claimant was entitled by virtue of subparagraph (5) to a disregard of £15; and
- (c) either he or his partner has continued in employment.

(7) For the purposes of this paragraph, no account shall be taken of any period not exceeding eight consecutive weeks occurring on or after the date on which the claimant or, if he is a member of a couple, he or his partner attained the age of 60 during which either or both ceased to be engaged in employment or the claimant ceased to be entitled to income support.”.

#### **Amendment of Schedule 3 to the principal Regulations**

18. In Schedule 3 to the principal Regulations (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 15 for the words “or 25 to 28 of Schedule 4” in both places they occur there shall be substituted the words “or 24 to 27 of Schedule 4”;
- (b) in paragraph 19 at the end shall be added the words “or a boarder”;
- (c) after paragraph 38 there shall be added the following paragraph—

“39. Any payment to a juror or witness in respect of attendance at a court other than compensation for loss of earnings or for the loss of a benefit payable under the benefit Acts.”.

#### **Amendment of Schedule 4 to the principal Regulations**

19. In Schedule 4 to the principal Regulations (capital to be disregarded)—

- (a) for paragraph 4 there shall be substituted the following paragraph—

“4. Any premises occupied in whole or in part—

- (a) by a partner or relative of any member of the family where that person is either aged 60 or over or incapacitated;
- (b) by the former partner of the claimant as his home; but this provision shall not apply where the former partner is a person from whom the claimant is estranged or divorced.”;

- (b) in paragraph 24 (capital to be disregarded) for the words “he left that dwelling” there shall be substituted the words “he ceased to occupy that dwelling or, where the dwelling is occupied as the home by the former partner who is a lone parent, for so long as it is so occupied”;

- (c) for paragraph 26 there shall be substituted the following paragraph—

“26. Any premises which the claimant intends to occupy as his home, and in respect of which he is taking steps to obtain possession and has sought legal advice, or has commenced legal proceedings, with a view to obtaining possession, for a period of 26 weeks from the date on which he first sought such advice or first commenced such proceedings whichever is the earlier, or such longer period as is reasonable in the circumstances to enable him to obtain possession and commence occupation of those premises.”.

- (d) in paragraph 32 for the words "payment of the bonus" there shall be substituted the words "receipt of that payment";
- (e) after paragraph 33 the following paragraph shall be added—  
"34. Any housing benefit on account of a person's liability to make payments in respect of a dwelling."

**Amendment of Schedule 5 to the principal Regulations**

20. In Schedule 5 to the principal Regulations (matters to be included in the notice of determination) in paragraph 11(a) for heads (i) and (ii) there shall be substituted—

- "(i) the matters set out in paragraph 9(a) and, in a case where the amount of entitlement is less than the minimum amount of housing benefit, paragraph 9(b) also,
- (ii) the matters set out in paragraph 10(b) to (d) where the person is not on income support, and
- (iii) where the amount of entitlement is less than the minimum amount of housing benefit prescribed, that fact and that such entitlement is not payable;"

**Amendment of Schedule 6 to the principal Regulations**

21. In Schedule 6 to the principal Regulations (constitution of review boards) for paragraph 1 in columns 1 and 2 of the table in that Schedule there shall be substituted—

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| “(1)<br>1. A levying authority or district council. | ”(2)<br>1. Councillors of that authority or council.” |
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Signed by the authority of the Secretary of State for Social Security.

7th March 1989

*Nicholas Scott*  
Minister of State,  
Department of Social Security

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Housing Benefit (Community Charge Rebates) (Scotland) Regulations 1988 (the principal Regulations).

The Regulations make miscellaneous amendments and in particular terminate the arrangements for treating charitable and voluntary payments in excess of £250 as income and make other miscellaneous amendments to the rules for calculating income and capital (regulations 2 to 12, 18 and 19).

They specify circumstances in which claims for housing benefit made after 1st April 1989 may be treated as having been made on that date (regulation 14).

They extend the information which may be provided by the Secretary of State to levying authorities to include a person's date of birth (regulation 15).

They introduce an increased pensioner premium for persons aged 75 and over and uprate the amount of the higher pensioner premium with effect from 9th October 1989 (regulation 16); and provide for an earnings disregard of £15 where but for these changes a person would have been entitled to the disability premium (regulation 17).

They also amend the requirements as to the contents of notices of determinations where no award is made and the membership of review boards (regulations 20 and 21).

These Regulations, except in so far as they are made under the powers in section 51 of the Social Security Act 1986, are made before the expiry of 12 months from the commencement of the provisions under which they are made; they are accordingly exempt by section 61(5) of the Social Security Act 1986 from reference to the Social Security Advisory Committee and have not been so referred.