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STATUTORY INSTRUMENTS

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**1992 No. 3147**

**The Social Security Benefits (Amendments Consequential  
Upon the Introduction of Community Care) Regulations 1992**

**PART III**

**HOUSING BENEFIT**

**Amendment of regulation 5 of the Housing Benefit Regulations**

**4.** In regulation 5 of the Housing Benefit Regulations (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)(1), in paragraph (9), in the definition of “residential accommodation”—

- (a) for sub-paragraph (a) there shall be substituted the following sub-paragraph—
  - “(a) under sections 21 to 24 and 26 of the National Assistance Act 1948(2) (provision of accommodation) where—
    - (i) board is available to the claimant, and
    - (ii) the home in which the accommodation is provided is either owned or managed or owned and managed by a local authority, and;”;
- (b) sub-paragraph (b) shall be omitted;
- (c) for sub-paragraph (c) there shall be substituted the following sub-paragraph—
  - “(c) under section 59 of the Social Work (Scotland) Act 1968(3) (provision of residential and other establishments) where—
    - (i) board is available to the claimant, and
    - (ii) the home in which the accommodation is provided is either owned or managed or owned and managed by a local authority, and;”;
- (d) after sub-paragraph (j), there shall be added the following sub-paragraph—
  - “(k) in sub-paragraphs (a) and (c), “board” refers to the availability to the claimant in the home in which his accommodation is provided of cooked or prepared food, where the food is made available to him in consequence solely of his paying the charge for the accommodation or any charge which he is required to pay as a result of occupying the accommodation, or both of those charges, and is made available for his consumption without any further charge to him;”.

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(1) Relevant amending instrument is S.I.1988/1971.

(2) 1948 c. 29; section 21 is amended by the National Health Service and Community Care Act 1990 (c. 19) section 42(1); section 26 is amended by section 42(2) to (6) of the same Act.

(3) 1968 c. 49;

**Amendment of regulation 7 of the Housing Benefit Regulations**

5.—(1) Regulation 7 of the Housing Benefit Regulations (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling)(4) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (2), sub-paragraphs (a) and (b) shall be omitted.

(3) After paragraph (3) there shall be added the following paragraphs—

“(4) Subject to the following provisions of this regulation, paragraph (5) applies to a person who—

- (a) occupies or is treated by regulation 5(8) as occupying residential accommodation on 31st March 1993,
- (b) is or was liable to pay rent in respect of that accommodation for that day,
- (c) is a person to whom sub-paragraph (a) or (b) of paragraph (2) applies immediately before 1st April 1993; and
- (d) is or was entitled to housing benefit in respect of the liability mentioned in sub-paragraph (b).

(5) In the case of a person to whom this paragraph applies, regulation 7 shall continue to apply to him as if the amendments specified in regulation 5(2) of the Social Security Benefits (Amendments Consequential Upon the Introduction of Community Care) Regulations 1992(5) had not been made.

(6) Subject to the following provisions of this regulation, paragraph (7) applies to a person who—

- (a) occupies or is treated under regulation 5(8) as occupying accommodation in an establishment which on 1st April 1993 is registered as a small home under Part I of the Registered Homes Act 1984(6) or is deemed to be so registered under section 2(3) of the Registered Homes (Amendment) Act 1991(7)(registration of small homes where application for registration not determined);
- (b) was occupying, or was treated under regulation 5(8) as occupying, that accommodation on 31st March 1993;
- (c) is or was liable to pay rent in respect of that accommodation for 31st March 1993; and
- (d) is or was entitled to housing benefit in respect of that liability.

(7) In the case of a person to whom this paragraph applies, paragraph (3) shall apply as if sub-paragraph (a) was omitted.

(8) Subject to paragraph (9), where on 1st April 1993 paragraph (5) or paragraph (7) applies to a person that paragraph shall cease to apply to him—

- (a) on the day on which he is first absent from the accommodation which he occupied or was treated under regulation 5(8) as occupying on 31st March 1993; and
- (b) on any day which falls after that day.

(9) For the purposes of paragraph (8) any absence which is temporary shall be disregarded and for those purposes an absence is temporary where during the absence the person is treated by regulation 5(8) as occupying the accommodation as his home.

(10) Where a person—

(4) Regulation 7 was amended by S.I. 1990/2564.

(5) S.I. 1992/3147.

(6) 1984 c. 23.

(7) ) 1991 c. 20.

- (a) ceases to be entitled to housing benefit; and
- (b) was before he ceased to be entitled a person to whom either paragraph (5) or paragraph (7) applied,

that paragraph or those paragraphs shall not apply to him in the case of any subsequent claim for housing benefit except where the claim takes effect in accordance with regulation 72(12) or (13) (repeat claims) immediately after the end of the benefit period.

(11) Where on 31st March 1993 a person occupies or is treated as occupying an establishment mentioned in paragraph (6)(a) and on a day subsequent to that date the establishment—

- (a) if it was registered under Part I of the Registered Homes Act 1984, ceases to be so registered; or
- (b) if it was deemed to be so registered is neither registered nor deemed to be registered,

then on that day and on any day thereafter paragraph (7) shall not apply to that person.

(12) In this regulation, “small home” has the same meaning as in Part I of the Registered Homes Act 1984(8) by virtue of section 1(4A) of that Act(9).”.

### **Amendment of regulation 8 of the Housing Benefit Regulations**

**6.—**(1) In regulation 8 of the Housing Benefit Regulations (eligible housing costs)(10) in paragraph (2)—

- (a) in sub-paragraph (a) after the words “for that benefit includes” there shall be inserted the words “a residential allowance or”; and
- (b) for sub-paragraph (b), there shall be substituted the following sub-paragraph—

“(b) payments in respect of accommodation provided under—

(i) sections 21 to 24 and 26 of the National Assistance Act 1948(11) where—

(aa) board is available to the claimant, and

(bb) the home in which the accommodation is provided is either owned or managed or owned and managed by a local authority; or

(ii) in Scotland, section 59 of the Social Work (Scotland)

Act 1968(12) where—

(aa) board is available to the claimant, and

(bb) the home in which the accommodation is provided is either owned or managed or owned and managed by a local authority;

and for these purposes “board” refers to the availability to the claimant in the home in which his accommodation is provided of cooked or prepared food, where the food is made available to him in consequence solely of his paying the charge for the accommodation or any other charge which he is required to pay as a condition of occupying the accommodation, or both of those charges, and is made available for his consumption without any further charge to him;”.

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(8) 1984 c. 23.

(9) Inserted by section 1(2) of the Registered Homes (Amendment) Act 1991 (c. 20).

(10) The relevant amending instruments are S.I. 1988/1444, 1971 and 1992/201.

(11) 1948 c. 29; section 21 is amended by the National Health Service and Community Care Act 1990 (c. 19) section 42(1); section 26 is amended by section 42(2) to (6) of the same Act.

(12) 1968 c. 49.

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**Status:** *This is the original version (as it was originally made).*

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