
STATUTORY INSTRUMENTS

1993 No. 1150

SOCIAL SECURITY

**The Income-related Benefits Schemes (Miscellaneous
Amendments) (No. 2) Regulations 1993**

<i>Made</i>	- - - -	<i>26th April 1993</i>
<i>Laid before Parliament</i>		<i>4th May 1993</i>
<i>Coming into force</i>	- -	<i>25th May 1993</i>

The Secretary of State for Social Security, in exercise of powers conferred upon him by sections 123(1), 132(1) and (5), 133(3), 135(1) and (6), 137(1) and 175(1) to (5) of the Social Security Contributions and Benefits Act 1992(1) and sections 63(3) and 189(1) and (4) of the Social Security Administration Act 1992(2), and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned (3) and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(4), hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Income-related Benefits Schemes (Miscellaneous Amendments) (No.2) Regulations 1993 and shall come into force on 25th May 1993.

(2) In these Regulations—

- (a) “the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(5);
- (b) “the Income Support Regulations” means the Income Support (General) Regulations 1987(6);

(1) 1992 c. 4; sections 123, 132, 133, 135, 137 and 175 of the Social Security Contributions and Benefits Act 1992 were amended to have effect with respect to council tax benefit by Schedule 9 to the Local Government Finance Act 1992 (c. 14); section 137(1) is an interpretation provision and is cited because of the meaning assigned to the word “prescribed”

(2) 1992 (c. 5); sections 63(3) and 189 of the Social Security Administration Act 1992 were amended to have effect with respect to council tax benefit by Schedule 9 to the Local Government Finance Act 1992 and section 63(3) was saved so far as it had effect with respect to community charge benefits by S.I.1993/502

(3) See section 176(1) of the Social Security Administration Act 1992: section 176(1) was amended by the Local Government Finance Act 1992, Schedule 9 paragraph 23.

(4) See section 173(1)(b) of the Social Security Administration Act 1992.

(5) S.I.1987/1971.

(6) S.I.1987/1967.

- (c) “the Community Charge Benefits Regulations” means the Community Charge Benefits (General) Regulations 1989(7);
- (d) “the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(8).

Amendment of the Housing Benefit Regulations

2.—(1) The Housing Benefit Regulations(9) shall be amended in accordance with the provisions of this regulation.

(2) In regulation 79 (review of determinations)—

- (a) in paragraph (1) at the beginning there shall be inserted the words “Subject to paragraph (1A),”;
- (b) after paragraph (1), there shall be inserted the following paragraph—
 - “(1A) In paragraph (1)(c) the expression “a mistake as to the law” shall not include any question as to whether, in making any provision in a regulation or Order, the Secretary of State went beyond the powers exercisable by him.”;
- (c) in paragraph (2) after the words “Notwithstanding paragraph (1),” there shall be inserted the words “except in the case of a question to which paragraph (1A) refers,”.

(3) In Schedule 2 paragraph 13 (severe disability premium)—

- (a) in sub-paragraph (2)(a) for the words “or lone parent” there shall be substituted the words “, a lone parent or a claimant who is treated as having no partner in consequence of sub-paragraph (2A)—”;
- (b) after sub-paragraph (2) there shall be inserted the following sub-paragraph
 - “(2A) Where a claimant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 12(1)(a)(v) and (2), that partner shall be treated for the purposes of sub-paragraph (2) as if he were not a partner of the claimant.”;
- (c) in sub-paragraph (3) the word “either” shall be omitted and after head (b) the word “or” and the following head shall be added—
 - “(c) a person who is blind or is treated as blind within the meaning of paragraph 12(1)(a)(v) and (2).”.

Amendment of the Income Support Regulations

3.—(1) Schedule 2 paragraph 13 to the Income Support Regulations (severe disability premium)(10) shall be amended in accordance with the provisions of this regulation.

(2) In sub-paragraph (2)(a) for the words “or a lone parent” there shall be substituted the words “, a lone parent or a claimant who is treated as having no partner in consequence of sub-paragraph (2A)”.

(3) After sub-paragraph (2) there shall be inserted the following sub-paragraph

“(2A) Where a claimant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 12(1)(a)(iii) and (2), that partner shall be treated for the purposes of sub-paragraph (2) as if he were not a partner of the claimant.”.

(4) In sub-paragraph (3) after head (c) the word “or” and the following head shall be added—

(7) S.I.1989/1321.

(8) S.I.1992/1814.

(9) Relevant amending instruments are S.I. 1990/546, 1991/2742 and 1992/432.

(10) Relevant amending instruments are S.I. 1988/663, 1989/1678 and 1991/2742.

- “(d) a person who is blind or is treated as blind within the meaning of paragraph 12(1)(a)(iii) and (2).”.

Amendment of the Community Charge Benefits Regulations

4.—(1) The Community Charge Benefits Regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulation 67 (review of determinations)**(11)**—

- (a) in paragraph (1) for the words “paragraph (1A),” there shall be substituted the words “paragraphs (1A) and (1B),”;
- (b) after paragraph (1A), there shall be inserted the following paragraph—
“(1B) In paragraph (1)(c) the expression “a mistake as to the law” shall not include any question as to whether, in making any provision in a regulation or Order, the Secretary of State went beyond the powers exercisable by him.”;
- (c) in paragraph (2) after the words “Notwithstanding paragraph (1),” there shall be inserted the words “except in the case of a question to which paragraph (1B) refers,”.

Amendment of the Council Tax Benefit Regulations

5.—(1) The Council Tax Benefit Regulations shall be amended in accordance with the provisions of this regulation.

(2) In regulation 69 (review of determinations)—

- (a) in paragraph (1) at the beginning there shall be inserted the words “Subject to paragraph (1A),”;
- (b) after paragraph (1) there shall be inserted the following paragraph—
“(1A) In paragraph (1)(c) the expression “a mistake as to the law” shall not include any question as to whether, in making any provision in a regulation or Order, the Secretary of State went beyond the powers exercisable by him.”;
- (c) in paragraph (2) after the words “Notwithstanding paragraph (1),” there shall be inserted the words “except in the case of a question to which paragraph (1A) refers,”.

(3) In Schedule 1 paragraph 14 (severe disability premium)—

- (a) in sub-paragraph (2)(a) for the words “or lone parent” there shall be substituted the words “, a lone parent or a claimant who is treated as having no partner in consequence of sub-paragraph (2A)”;
- (b) after sub-paragraph (2) there shall be inserted the following sub-paragraph
“(2A) Where a claimant has a partner who does not satisfy the condition in sub-paragraph (2)(b)(ii), and that partner is blind or is treated as blind within the meaning of paragraph 13(1)(a)(v) and (2), that partner shall be treated for the purposes of sub-paragraph (2)(b)(ii) as if he were not a partner of the claimant.”;
- (c) in sub-paragraph (3) the word “either” shall be omitted and after head (b) the word “or” and the following head shall be added—
“(c) a person who is blind or is treated as blind within the meaning of paragraph 13(1)(a)(v) and (2).”.

(11) Relevant amending instruments are S.I.1991/849 and 1992/432.

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

26th April 1993

Alistair Burt
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Housing Benefit (General) Regulations 1987, the Income Support (General) Regulations 1987, the Community Charge Benefits (General) Regulations 1989 and the Council Tax Benefit (General) Regulations 1992.

They provide that in reviewing determinations relating to housing benefit, community charge benefits and council tax benefit, the question of whether the Secretary of State went beyond the powers exercisable by him in making any provision in a regulation or Order is not a question arising in connection with an authority's or Review Board's power to review on the ground of a mistake of law.

They provide that in calculating the applicable amount of a claimant for housing benefit, income support or council tax benefit, where the claimant is living with a person who is blind or is treated as blind, the presence of that person shall not prevent the claimant from satisfying the qualifying condition for a severe disability premium.