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STATUTORY INSTRUMENTS

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**1993 No. 317**

**The Housing Benefit (General) Amendment Regulations 1993**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Housing Benefit (General) Amendment Regulations 1993 and shall come into force—

- (a) for the purposes of this regulation and regulation 15 in so far as it relates to paragraph 4 of the Schedule on 29th March 1993;
- (b) for the purposes of regulation 15 in so far as it relates to paragraph 5 of the Schedule on 1st April 1993;
- (c) for all other purposes—
  - (i) in any case where rent is payable at intervals of one month or any other interval which is not a week or a multiple thereof, on 1st April 1993;
  - (ii) in any other case, on 5th April 1993.

(2) In these Regulations “the 1987 Regulations” means the Housing Benefit (General) Regulations 1987(1).

**Amendment of regulation 2 of the 1987 Regulations**

2. In regulation 2(1) of the 1987 Regulations (interpretation)—

- (a) after the definition of “close relative” there shall be inserted the following definition—

““community charge benefit” means community charge benefits under Part VII of the Contributions and Benefits Act as originally enacted(2);”;
- (b) after the definition of “concessionary payment” there shall be inserted the following definition—

““the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992(3);”;
- (c) for the definition of “water charges”(4) there shall be substituted the following definition—

““water charges” means—

  - (a) as respects England and Wales, any water and sewerage charges under Chapter I of Part V of the Water Industry Act 1991(5),
  - (b) as respects Scotland, any water and sewerage charges under Schedule 11 to the Local Government Finance Act 1992(6),

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(1) S.I.1987/1971; the relevant amending instruments are S.I. 1988/1971, 1989/416, 1990/127, 546, 1773 and 1775, 1991/235, 387, 1175, 1599 and 2695 and 1992/50, 432, 1101 and 2148.

(2) 1992 c. 4; Part VII of the Contributions and Benefits Act 1992 was amended by the Local Government Finance Act 1992 (c. 14), section 103 and Schedule 9, which replaced references to community charge benefit with references to council tax benefit.

(3) 1992 c. 4.

(4) The definition of “water charges” was inserted by S.I. 1990/1773.

(5) 1991 c. 56.

(6) 1992 c. 14.

in so far as such charges are in respect of the dwelling which a person occupies as his home;”

### **Amendment of regulation 5 of the 1987 Regulations**

**3.—**(1) Regulation 5 of the 1987 Regulations (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (5)—

(a) in sub-paragraph (a)—

(i) there shall be inserted at the beginning the words “for a period not exceeding 52 weeks in the case”;

(ii) for the words “and it is reasonable” there shall be substituted the words—

“and—

(i) it is reasonable”;

(iii) for the words “the home; or” there shall be substituted the words—

“the home, and

(ii) he intends to return to occupy the former dwelling as his home; or”;

(b) in sub-paragraph (d) for the word “unavoidable.” there shall be substituted the words “unavoidable; or”;

(c) after sub-paragraph (d) there shall be added the following sub-paragraph—

“(e) in the case where a person—

(i) is treated by virtue of paragraph (6) as occupying a dwelling as his home (“the new dwelling”) and sub-paragraph (c)(i) of that paragraph applies, and

(ii) he has occupied another dwelling as his home on any day within the period of 4 weeks immediately preceding the date he moved to the new dwelling,

for a period not exceeding 4 benefit weeks immediately preceding the date on which he moved.”.

(3) In paragraph (7) after the words “housing benefit” on both occasions on which they occur there shall be added the words “in respect of that dwelling”.

(4) After paragraph (7) there shall be inserted the following paragraph—

“(7A) Where a person—

(a) formerly occupied a dwelling but has left and remains absent from it through fear of violence—

(i) in the dwelling, or

(ii) by a person who was formerly a member of the family of the person first mentioned, and

(b) has a liability to make payments in respect of that dwelling which is unavoidable, he shall be treated as occupying the dwelling as his home for a period not exceeding 4 benefit weeks.”.

#### **Amendment of regulation 10 of the 1987 Regulations**

4. In regulation 10(3) of the 1987 Regulations (rent)(7) at the end of sub-paragraph (b) there shall be added the following—

“and

- (c) where he is liable to make payments in respect of any service charges to which paragraph (1)(e) does not apply, but to which paragraph 2(1A) of Schedule 1 (unreasonably low service charges) applies in the particular circumstances, an amount in respect of such charges determined in accordance with paragraph 2(1A) of Schedule 1.”.

#### **Amendment of regulation 12A of the 1987 Regulations**

5. In regulation 12A(8) of the 1987 Regulations (requirement to refer to rent officers)(8) in the definition of “change relating to a rent allowance” for the words “(c) or (d)” there shall be substituted the words “(c), (d) or (e) or (4)”.

#### **Amendment of regulation 30 of the 1987 Regulations**

6. In regulation 30 of the 1987 Regulations (earnings of self-employed earners)(9)—

- (a) for the word “Earnings” there shall be substituted the words—

“(1) Subject to paragraph (2), “earnings”;

- (b) after paragraph (1) there shall be added the following paragraph—

“(2) “Earnings” shall not include any payment to which paragraph 24 of Schedule 4 refers (payments in respect of a person accommodated with the claimant under arrangements made by a local authority or voluntary organisation)(10).”.

#### **Amendment of regulation 35 of the 1987 Regulations**

7.—(1) Regulation 35 of the 1987 Regulations (notional income)(11) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3)(a) for the words “ordinary clothing or footwear, household fuel or eligible rent,” there shall be substituted the words “household fuel or, subject to paragraph (8), rent or ordinary clothing or footwear.”.

- (3) For paragraph (8) there shall be substituted the following paragraph—

“(8) In paragraph (3)—

- (a) “rent” means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions)(12);
- (b) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”.

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(7) Relevant amending instrument is S.I. 1990/546.

(8) Regulation 12A was inserted by S.I. 1990/546.

(9) Regulation 30 was amended by S.I. 1991/387.

(10) Paragraph 24 of Schedule 4 was substituted by S.I. 1992/432.

(11) Relevant amending instruments are S.I. 1988/1971, 1990/127 and 1775, 1991/1175 and 1599 and 1992/1101.

(12) Regulation 63 was amended by S.I. 1990/546 and 1775, 1991/235 and 387 and 1992/50 and 2148.

### **Amendment of regulation 36 of the 1987 Regulations**

**8.** In regulation 36(2) of the 1987 Regulations (modifications in respect of child and young person)(**13**) after the words “any income of that child or young person” there shall be inserted the words “, other than income consisting of any payment of maintenance whether under a court order or not,”.

### **Amendment of regulation 43 of the 1987 Regulations**

**9.—(1)** Regulation 43 of the 1987 Regulations (notional capital)(**14**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3)(a) for the words “ordinary clothing or footwear, household fuel or eligible rent,” there shall be substituted the words “household fuel or, subject to paragraph (7), rent or ordinary clothing or footwear,”.

(3) For paragraph (7) there shall be substituted the following paragraph—

“(7) In paragraph (3)—

- (a) “rent” means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions)(**15**);
- (b) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”

### **Amendment of regulation 63 of the 1987 Regulations**

**10.** In regulation 63 of the 1987 Regulations (non-dependant deductions) in paragraph (3) for the words from “where a different amount” to the end of the paragraph there shall be substituted the words—

“where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.”.

### **Amendment of Schedule 1 to the 1987 Regulations**

**11.—(1)** In paragraph 2 of Schedule 1 to the 1987 Regulations (amount of ineligible charges)(**16**)—

- (a) in sub-paragraph (1A) for the words “any service charge to which regulation 10(1)(e) (rent) applies and” there shall be substituted the words “any ineligible service charge”;
- (b) after sub-paragraph (1A) there shall be inserted the following sub-paragraph—

“(1B) In sub-paragraph (1A) the expression “ineligible service charge” includes any service charge which does not qualify as a periodical payment under regulation 10(1)(e) (rent).”.

### **Amendment of Schedule 1A to the 1987 Regulations**

**12.** In paragraph 2 of Schedule 1A to the 1987 Regulations (excluded tenancies)(**17**)—

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(13) Regulation 36 was amended by S.I. [1991/2695](#).

(14) Relevant amending instruments are S.I. [1988/1971](#), [1990/127](#) and [1775](#), [1991/1175](#) and [1599](#) and [1992/1101](#).

(15) Regulation 63 was amended by S.I. [1990/546](#) and [1775](#), [1991/235](#) and [387](#) and [1992/50](#) and [2148](#).

(16) Paragraph 2(1A) of Schedule 1 was inserted by S.I. [1991/235](#).

(17) Schedule 1A was inserted by S.I. [1990/546](#). Relevant amending instrument is S.I. [1991/235](#).

- (a) in sub-paragraph (1) for the words “(2) and (3)” there shall be substituted the words “(2) to (5)”;
- (b) after sub-paragraph (3) there shall be added the following sub-paragraphs—
  - “(4) Except where the appropriate local authority has previously applied to a rent officer pursuant to this sub-paragraph in respect of the tenancy, sub-paragraph (1) shall not apply where—
    - (a) subsequent to the making of the determination mentioned in that sub-paragraph there has been a rent increase in respect of the tenancy during the period beginning on 1st April 1993 and ending on 31st March 1994; and
    - (b) at the date of that increase the claimant was not liable to pay council tax by virtue of regulations made under section 8 of the Local Government Finance Act 1992 (liability to council tax in prescribed cases)(18); and
    - (c) the rent increase does not come within head (c) of sub-paragraph (3).
  - (5) In sub-paragraph (1) “determination” does not include a determination made as a result of an application to a rent officer pursuant to sub-paragraph (4).”.

### **Amendment of Schedule 3 to the 1987 Regulations**

**13.**—(1) Schedule 3 to the 1987 Regulations (sums to be disregarded in the calculation of earnings)(19) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 3(4)(c) after the words “sub-paragraph (2)” there shall be inserted the words “or (3)”.

(3) After paragraph 4(20) there shall be inserted the following paragraphs—

“**4A.**—(1) In a case to which neither paragraph 3 nor paragraph 4 applies to the claimant, and subject to sub-paragraph (2), where the claimant’s applicable amount includes an amount by way of the carer premium under Schedule 2 (applicable amounts), £15 of the earnings of the person who is, or at any time in the preceding eight weeks was, in receipt of invalid care allowance or treated in accordance with paragraph 14ZA(2)(21) of that Schedule as being in receipt of invalid care allowance.

(2) Where the carer premium is awarded in respect of the claimant and of any partner of his, their earnings shall for the purposes of this paragraph be aggregated, but the amount to be disregarded in accordance with sub-paragraph (1) shall not exceed £15 of the aggregated amount.

**4B.** Where the carer premium is awarded in respect of a claimant who is a member of a couple and whose earnings are less than £15, but is not awarded in respect of the other member of the couple, and that other member is engaged in an employment—

- (a) specified in paragraph 6(1), so much of the other member’s earnings as would not when aggregated with the amount disregarded under paragraph 4A exceed £15;
- (b) other than one specified in paragraph 6(1), so much of the other member’s earnings from such other employment up to £10 as would not when aggregated with the amount disregarded under paragraph 4A exceed £15.”.

(4) In paragraph 5 for the words “paragraph 3 does not apply” there shall be substituted the words “paragraphs 3, 4A and 4B do not apply”.

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(18) 1992 c. 14.

(19) Paragraph 3 of Schedule 3 was substituted by S.I. 1989/416.

(20) Paragraph 4 of Schedule 3 was substituted by S.I. 1990/1775.

(21) Paragraph 14ZA of Schedule 2 was inserted by S.I. 1990/1775.

(5) In paragraph 6 for the words “to which neither paragraph 3 nor 4 applies” there shall be substituted the words “where paragraphs 3, 4, 4A and 4B do not apply”.

(6) In paragraph 9 for the words “17, 18 or 27” there shall be substituted the words “17 or 18”.

#### **Amendment of Schedule 4 to the 1987 Regulations**

**14.**—(1) Schedule 4 to the 1987 Regulations (sums to be disregarded in the calculation of income other than earnings)(**22**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 13—

(a) in sub-paragraph (2) for the words “ordinary clothing or footwear, household fuel or eligible rent” there shall be substituted the words “household fuel or, subject to paragraph (5), rent or ordinary clothing or footwear.”;

(b) for sub-paragraph (5) there shall be substituted the following sub-paragraph—

“(5) In sub-paragraph (2)—

(a) “rent” means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions)(**23**);

(b) the expression “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”

(3) In paragraph 15—

(a) in sub-paragraph (2)(**24**) for the words from “only to the extent of” to the end of the sub-paragraph there shall be substituted the words—

“only to the extent of—

(a) any mortgage repayments made in respect of the dwelling or premises in the period during which that income accrued; or

(b) any council tax or water charges which the claimant is liable to pay in respect of the dwelling or premises and which are paid in the period during which that income accrued.”;

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

“(3) The definition of “water charges” in regulation 2(1) shall apply to sub-paragraph (2) of this paragraph with the omission of the words “in so far as such charges are in respect of the dwelling which a person occupies as his home”.”.

(4) Paragraph 27 (disregard of maintenance payments made by claimant) shall be omitted.

(5) After paragraph 49(**25**) there shall be added the following paragraphs—

“**50.** Any guardian’s allowance.

**51.** Any council tax benefit.”.

#### **Amendments consequential on the introduction of council tax benefit**

**15.** The Schedule to these Regulations, which contains amendments to the 1987 Regulations consequential on the abolition of community charges, the introduction of council tax and the introduction of council tax benefit in succession to community charge benefits, shall have effect.

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(22) Relevant amending instruments are S.I. 1988/1971, 1990/546 and 1775 and 1991/1599.

(23) Regulation 63 was amended by S.I. 1990/546 and 1775, 1991/235 and 387 and 1992/50 and 2148.

(24) Paragraph 15(2) of Schedule 4 was amended by S.I. 1988/1971 and 1990/546.

(25) Paragraphs 48 and 49 were added by S.I. 1992/432.

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

22nd February 1993

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