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STATUTORY INSTRUMENTS

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**1993 No. 688**

**SOCIAL SECURITY**

**The Council Tax Benefit (General)  
Amendment Regulations 1993**

*Made* - - - - *10th March 1993*  
*Coming into force* - - *1st April 1993*

Whereas a draft of this instrument was laid before Parliament in accordance with the Local Government Finance Act 1992, Schedule 9 paragraphs 11 and 26 and approved by resolution of each House of Parliament—

Now therefore the Secretary of State for Social Security in exercise of powers conferred on him by sections 123(1)(e), 131(7)(b), (10) and (12), 132(1) and (4), 133(3) and (4), 135(1), (5) and (6), 136(1) and (3) to (5), 137(1), 175(1) to (5) of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup> and sections 6(1)(g), (h), (k) and (l), 63(1) and (3), 128(1), 189(1) and (3) to (5) and 191(1) of the Social Security Administration Act 1992<sup>(2)</sup> as they have effect with respect to council tax benefit by virtue of section 103 of and Schedule 9 to the Local Government Finance Act 1992<sup>(3)</sup> and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of the authorities concerned<sup>(4)</sup> and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it<sup>(5)</sup>, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Council Tax Benefit (General) Amendment Regulations 1993 and shall come into force on 1st April 1993 immediately after the coming into force of article 20 of the Social Security Benefits Up-rating Order 1993<sup>(6)</sup>.

(2) In these Regulations “the principal Regulations” means the Council Tax Benefit (General) Regulations 1992<sup>(7)</sup>.

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(1) 1992 c. 4; section 137(1) is an interpretation provision and is cited because of the meaning assigned to “prescribed”.  
(2) 1992 c. 5; section 191(1) is an interpretation provision and is cited because of the meaning assigned to “prescribe”.  
(3) 1992 c. 14.  
(4) See section 176(1) of the Social Security Administration Act 1992, which was amended by the Local Government Finance Act 1992 Schedule 9 paragraph 23.  
(5) See the Social Security Administration Act 1992, section 173(1)(b) and (7); section 173(7) defines “regulations”.  
(6) S.I.1993/349.  
(7) S.I.1992/1814.

## **Amendment of regulation 2 of the principal Regulations**

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

(a) for the definition of “community charge benefit” there shall be substituted the following definition—

““community charge benefit” means community charge benefits under Part VII of the Contributions and Benefits Act 1992 as originally enacted<sup>(8)</sup>”;

(b) the definition of “eligible rent” shall be omitted;

(c) after the definition of “lone parent” there shall be inserted the following definition—

““lower rate” where it relates to rates of tax has the same meaning as in the Income and Corporation Taxes Act 1988<sup>(9)</sup> by virtue of section 832(1) of that Act”;

(d) after the definition of “remunerative work” there shall be inserted the following definition—

““rent” means “eligible rent” to which regulation 10 of the Housing Benefit (General) Regulations 1987<sup>(10)</sup> refers, less any deductions in respect of non-dependants which fall to be made under regulation 63 of those Regulations”;

(e) for the definition of “water charges” there shall be substituted the following definition—

““water charges” means—

(a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part V of the Water Industry Act 1991<sup>(11)</sup>;

(b) as respects Scotland, any water and sewerage charges under Schedule 11 to the 1992 Act;

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

(2) In regulation 2(2) for the words “In Schedule 5” there shall be substituted the words “In these Regulations”.

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

3. In regulation 10(1)(b) of the principal Regulations (applicable amounts for patients) for the words “regulation 8(a) or (c) or (d)” there shall be substituted the words “regulation 8(b) or (c) or (d)”.

## **Amendment of regulation 18 of the principal Regulations**

4. In regulation 18 of the principal Regulations (disregard of changes in tax, contributions etc.) in paragraph (c)—

(a) for the words “weekly earnings figures” there shall be substituted the words “upper earnings limit”;

(b) for the words “that Act” there shall be substituted the words “that Act, the lower or upper limits applicable to Class 4 contributions under that Act or the amount specified in section 11(4) of that Act (small earnings exception in relation to Class 2 contributions)”.

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<sup>(8)</sup> Part VII of the Contributions and Benefits Act 1992 was amended by the Local Government Finance Act 1992 Schedule 9 which substituted council tax benefit for community charge benefits.

<sup>(9)</sup> 1988 c. 1; the definition of “lower rate” was added by the Finance Act 1992 (c. 20), section 9(9).

<sup>(10)</sup> S.I.1987/1971; relevant amending instruments are S.I.1988/1971, 1990/546 and 1993/317.

<sup>(11)</sup> 1991 c. 56.

#### **Amendment of regulation 20 of the principal Regulations**

5. In regulation 20(4)(a) of the principal Regulations (calculation of net earnings of employed earners)—

- (a) for the words “the basic rate of tax” there shall be substituted the words “the lower rate or, as the case may be, the lower rate and the basic rate of tax”;
- (b) after the words “less than a year,” there shall be inserted the words “the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and”.

#### **Amendment of regulation 21 of the principal Regulations**

6. In regulation 21 of the principal Regulations (earnings of self-employed earners)—

- (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 25 of Schedule 4 refers (payments in respect of a person accommodated with the claimant under arrangements made by a local authority or voluntary organisation).”.

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

7. In regulation 23(1) of the principal Regulations (deduction of tax for self-employed earners)—

- (a) for the words “the basic rate of tax” there shall be substituted the words “the lower rate or, as the case may be, the lower rate and the basic rate of tax”;
- (b) after the words “less than a year,” there shall be inserted the words “the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and”.

#### **Amendment of regulation 26 of the principal Regulations**

8. In regulation 26 of the principal Regulations (notional income)—

- (a) in paragraph (3)(a) for the words from “eligible rent” to “refers,” there shall be substituted the word “rent”;
- (b) in paragraph (7)(a)—
  - (i) for the words “the basic rate of tax” there shall be substituted the words “the lower rate or, as the case may be, the lower rate and the basic rate of tax”;
  - (ii) after the words “less than a year” there shall be inserted the words “, the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and”.

#### **Amendment of regulation 27 of the principal Regulations**

9. In regulation 27(2) of the principal Regulations (modifications in respect of child or young person) 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 34 of the principal Regulations**

10. In regulation 34(3) of the principal Regulations (notional capital), for the words from “eligible rent” to “refers,” there shall be substituted the word “rent”.

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

**11.**—(1) Regulation 35 of the principal Regulations (diminishing notional capital rule) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3)—

(a) at the end of sub-paragraph (d) for the words “(notional capital).” there shall be substituted the words “(notional capital); and”;

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

“(e) where the claimant has also claimed disability working allowance, the amount of disability working allowance or any additional amount of that benefit to which he would have been entitled in respect of the benefit week to which paragraph (2) refers but for the application of regulation 37(1) of the Disability Working Allowance (General) Regulations 1991 (notional capital)(12).”.

(3) In paragraph (4)—

(a) at the end of sub-paragraph (c) the word “and” shall be omitted;

(b) at the end of sub-paragraph (d) for the words “obtained by 7.” there shall be substituted the words “obtained by 7; and”;

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

“(e) if the claimant would, but for regulation 37(1) of the Disability Working Allowance (General) Regulations 1991 (notional capital), have been entitled to disability working allowance or to an additional amount of that benefit in respect of the benefit week within the meaning of regulation 38(8)(a) of those Regulations (diminishing notional capital rule), which includes the last day of the relevant week, an amount equal to—

(i) in a case where no disability working allowance is payable, the amount to which he would have been so entitled, or

(ii) in any other case, the additional amount of disability working allowance to which he would have been so entitled.”.

### **Amendment of regulation 42 of the principal Regulations**

**12.** In regulation 42(2)(g) of the principal Regulations (payments towards the cost of books to be disregarded from a student’s grant income) for the amount “£257” there shall be substituted the amount “£267”.

### **Amendment of regulation 51 of the principal Regulations**

**13.** In regulation 51(2)(b) of the principal Regulations (maximum council tax benefit) for the words “paragraph 6” there shall be substituted the words “paragraphs 6 and 7”.

### **Amendment of regulation 52 of the principal Regulations**

**14.** In regulation 52(9) of the principal Regulations (non-dependant deductions) for the words “any attendance allowance or disability living allowance received by him” there shall be substituted the words—

“—

(a) any attendance allowance or disability living allowance received by him;

- (b) any payment made under the Trusts, the Fund or the Independent Living Fund which had his income fallen to be calculated under regulation 24 (calculation of income other than earnings) would have been disregarded under paragraph 22 of Schedule 4 (income in kind); and
- (c) any payment which had his income fallen to be calculated under regulation 24 would have been disregarded under paragraph 35 of Schedule 4 (payments made under certain trusts and certain other payments).”.

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

**15.** In regulation 55 of the principal Regulations (residents of a dwelling to whom section 131(6) of the Contributions and Benefits Act 1992 does not apply)—

- (a) in paragraph (b) for the words from “and neither member” to the end of the paragraph, there shall be substituted the words—

“and—

- (i) in the case of a couple, neither member of that couple is a person who, in accordance with Schedule 1 to the 1992 Act, falls to be disregarded for the purposes of discount, or
  - (ii) in the case of a polygamous marriage, two or more members of that marriage are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount;”;
- (b) in paragraph (d) for the words from “where none or only one” to the end of the paragraph, there shall be substituted the words “and two or more of those persons are not persons who, in accordance with Schedule 1 to the 1992 Act, fall to be disregarded for the purposes of discount,”.

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

**16.** In regulation 59(7) of the principal Regulations (date on which change of circumstances is to take effect) for the words “paragraph (2), (3), (5) or (6)” there shall be substituted the words “the appropriate paragraph from (2) to (6)”.

#### **Amendment of regulation 61 of the principal Regulations**

**17.** In regulation 61(5) of the principal Regulations (appointment of persons to act on behalf of another) for the words “for the purposes of section 6(1)(g) of the Administration Act 1992” there shall be substituted the words “under regulation 33 of the Social Security (Claims and Payments) Regulations 1987 (persons unable to act)(13)”.

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

**18.** In regulation 63(3) of the principal Regulations (evidence and information) after sub-paragraph (b) there shall be added the following sub-paragraph—

- “(c) a payment which is disregarded under regulation 52(9)(b) or (c) (non-dependant deductions) or paragraph 2(b) or (c) of Schedule 2 (second adult’s gross income) other than a payment under the Independent Living Fund.”.

### **Amendment of regulation 66 of the principal Regulations**

**19.** In regulation 66(2)(a) of the principal Regulations (authority not required to determine specified claims) for the words “regulation 61(8)” there shall be substituted the words “regulation 62(8)”.

### **Amendment of regulation 70 of the principal Regulations**

**20.** In regulation 70(4) of the principal Regulations (power for a housing benefit Review Board to review a determination in respect to council tax benefit) for the words “a Review Board appointed in accordance with that regulation” there shall be substituted the words “or a determination relating to community charge benefit in accordance with regulation 69 of the Community Charge Benefits (General) Regulations 1989(14) (further review of community charge benefit determinations), a Review Board appointed in accordance with either of those regulations”.

### **Amendment of regulation 92 of the principal Regulations**

**21.** Regulation 92 of the principal Regulations (information to be supplied by the Secretary of State to an appropriate authority) shall be renumbered regulation 92(1) and the following new paragraph shall be added—

“(2) Except in the case of a non-dependant to whom paragraph (1)(j) refers, in this regulation “person” means a person by whom or in respect of whom a claim for council tax benefit has been made.”

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

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

(a) in paragraph 11(3)—

(i) in head (c)(i) after the words “housing benefit” there shall be inserted the words “or, as the case may be, community charge benefit”;

(ii) in head (c)(ii), at the end there shall be added the words “or, as the case may be, paragraphs 11 and 13 of Schedule 1 to the Community Charge Benefits (General) Regulations 1989(15)”;

(b) in paragraph 13(1)(b) for the words “sub-paragraph (b)” there shall be substituted the words “sub-paragraph (6)”.

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

**23.** In Schedule 2 to the principal Regulations (amount of alternative maximum council tax benefit)—

(a) in Column (1) paragraph (b) of the Table(16)—

(i) for the words “does not exceed £105” there shall be substituted the words “is less than £105”, and

(ii) for the words “exceeds £105 per week but does not exceed £135 per week” there shall be substituted the words “is not less than £105 per week, but is less than £135 per week”;

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(14) S.I. 1989/1321.

(15) Relevant amending instruments with respect to Schedule 1 are S.I. 1990/834 and 1991/2742.

(16) The figures originally in column 1 paragraph (b) of Schedule 2 to the principal Regulations have been increased to the amounts shown above by the Social Security Benefits Up-rating Order 1993 (S.I. 1993/349) the relevant part of which (article 20) comes into force immediately before these Regulations; see regulation 1(1) above.

- (b) in paragraph 2 for the words from “any attendance allowance,” to the end of the paragraph there shall be substituted the words—
- “(a) any attendance allowance, or any disability living allowance under section 71 of the Contributions and Benefits Act 1992;
  - (b) any payment made under the Trusts, the Fund or the Independent Living Fund which had his income fallen to be calculated under regulation 24 (calculation of income other than earnings) would have been disregarded under paragraph 22 of Schedule 4 (income in kind); and
  - (c) any payment which had his income fallen to be calculated under regulation 24 would have been disregarded under paragraph 35 of Schedule 4 (payments made under certain trusts and certain other payments).”.

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

**24.** In Schedule 3 to the principal Regulations (sums to be disregarded in the calculation of earnings)—

- (a) in paragraph 3(4)(c) for the words “sub-paragraph (2)” there shall be substituted the words “sub-paragraph (2) or (3)”;
- (b) after paragraph 4 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 1 (applicable amounts), £15 of the earnings of the person who is, or at any time in the preceding 8 weeks was, in receipt of invalid care allowance or treated in accordance with paragraph 16(1) 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 under this paragraph 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.”;
- (c) 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”;
- (d) in paragraph 6(1) for the words “in which neither paragraph 3 nor 4” there shall be substituted the words “where paragraphs 3, 4, 4A and 4B do not apply”;
- (e) in paragraph 9 for the words “paragraph 17, 18 or 28” there shall be substituted the words “paragraph 17 or 18”.

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

**25.** In Schedule 4 to the principal Regulations (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 13(2) for the words “eligible rent” there shall be substituted the word “rent”;
- (b) for paragraph 15(2) there shall be substituted the following sub-paragraphs—
  - “(2) Income derived from capital disregarded under paragraph 2, 4, or 24 to 27 of Schedule 5, but 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.
    - (3) The definition of “water charges” in regulation 2(1) shall apply to sub-paragraph (2) 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””
- (c) paragraph 28 shall be omitted;
- (d) after paragraph 48 the following paragraphs shall be added—
  - “49. Any guardian’s allowance.
  - 50. Any community charge benefit.”

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

- 26.** In Schedule 5 to the principal Regulations (capital to be disregarded)—
- (a) in paragraph 8 after sub-paragraph (b) the following sub-paragraph shall be inserted—
    - “(c) any mobility allowance under section 37A of the Social Security Act 1975(17),”;
  - (b) after paragraph 43 the following paragraphs shall be added—
    - “44. Any community charge benefit.

**45.—**(1) Subject to sub-paragraph (2), where a claimant satisfies the conditions in section 131(3) and (6) of the Contributions and Benefits Act 1992 (entitlement to the alternative maximum council tax benefit), the whole of his capital.

(2) Where in addition to satisfying the conditions in section 131(3) and (6) of the Contributions and Benefits Act 1992 the claimant also satisfies the conditions in section 131(4) and (5) of that Act (entitlement to the maximum council tax benefit), sub-paragraph (1) shall not have effect.”.

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

10th March 1993

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

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(17) 1975 c. 14. Section 37A was inserted by section 22(1) of the Social Security Pensions Act 1975 (c. 60) and amended by the National Health Service Act 1977 (c. 49) Schedule 15 paragraph 64, section 3 of the Social Security Act 1979 (c. 18) and sections 71 and 86 of and Schedule 11 to the Social Security Act 1986 (c. 50). The section was repealed by the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 21).



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## EXPLANATORY NOTE

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

These Regulations amend the Council Tax Benefit (General) Regulations 1992(S.I.1992/1814) (the principal Regulations).

They provide for the calculation of the amount to be deducted in respect of income tax in relation to a claimant's earnings to take account of the lower rate of income tax and define the expression "lower rate", replace the definition of "eligible rent" with a definition of "rent" and amend the definition of "community charge benefit" and "water charges" (regulations 2, 5, 7, 8 and 10).

They make a minor correction in the provision prescribing a patient's applicable amount (regulation 3).

They specify further legislative changes which relate to social security contributions and which authorities may temporarily disregard when calculating a claimant's income (regulation 4).

They except certain payments from the meaning of earnings with respect to self-employed earners (regulation 6).

They amend the manner in which the income of a child or young person is to be calculated (regulation 9).

They amend the provisions which specify how notional capital attributed to a claimant is to be reduced by providing that such notional capital shall be further reduced to take account of any disability working allowance to which he would have been entitled but for the effect of his notional capital on his entitlement to disability working allowance (regulation 11).

They increase the payment towards the cost of books to be excluded from a student's grant in calculating his income (regulation 12).

They amend the manner in which a person's maximum council tax benefit is to be calculated (regulation 13).

They amend the provisions for calculating the income of a non-dependant by providing for the disregard of certain payments (regulation 14).

They amend the provision prescribing those residents of a dwelling in respect of whom entitlement to an alternative maximum council tax benefit shall not arise (regulation 15).

They amend the provision governing the day when a change of circumstance is to have effect where two or more changes take place in the same benefit week (regulation 16).

They amend a reference to legislation under which the Secretary of State may appoint persons to act for those unable to do so for themselves (regulation 17).

They further specify the evidence and information which may be required in respect of a claim (regulation 18).

They correct references in regulation 66 (determination of claims) and paragraph 13(1)(b) of Schedule 1 to the principal Regulations (the additional condition for the higher pensioner and disability premiums) (regulations 19 and 22).

They enable a community charge benefit Review Board to conduct further reviews of council tax benefit determinations in certain cases (regulation 20).

They insert a definition of "person" in regulation 92 to restrict the cases in which certain personal information may be supplied by the Secretary of State to an authority (regulation 21).

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

They provide for the disregard of certain payments in calculating the gross income of a second adult residing with a claimant for council tax benefit to whom Schedule 2 to the principal Regulations applies (regulation 23).

They amend provisions specifying the income and capital of a claimant which is to be disregarded (regulations 24 to 26).