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STATUTORY INSTRUMENTS

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**1994 No. 648**

**The Housing Renovation etc. Grants  
(Reduction of Grant) Regulations 1994**

**PART I  
GENERAL**

**Citation and commencement**

**1.** These Regulations may be cited as the Housing Renovation etc. Grants (Reduction of Grant) Regulations 1994 and shall come into force on 4th April 1994.

**Interpretation**

**2.—(1)** In these Regulations, unless the context otherwise requires—

“the Act” means the Local Government and Housing Act 1989;

“the 1992 Act” means the Social Security Contributions and Benefits Act 1992(1);

“application” means an application within section 109(1) of the Act;

“assessment period” means such period as is prescribed in regulations 17 to 19 over which income falls to be determined;

“attendance allowance” means—

- (a) an attendance allowance under Part III of the 1992 Act;
- (b) an increase of disablement pension under section 104 of that Act;
- (c) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part II of Schedule 8 to that Act (constant attendance allowance);
- (d) an increase of an allowance which is payable in respect of constant attendance under a scheme under, or having effect under, paragraph 4 of Part I of Schedule 8 to that Act(2) (industrial diseases benefit schemes);
- (e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(3) or any analogous payment;
- (f) any payment based on need for attendance which is paid as part of a war disablement pension;

“child” means a person under the age of 16;

“child benefit” means child benefit under Part IX of the 1992 Act;

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(1) 1992 c. 4.

(2) See section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975 (c. 16) which was repealed, with savings, by the Social Security (Consequential Provisions) Act 1992 (c. 6).

(3) S.I.1983/686: relevant amending instruments are S.I.1983/1164 and 1984/1675.

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple;

“community charge benefits” means community charge benefits under Part VII of the 1992 Act;

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit under the 1992 Act are charged;

“council tax benefit” means council tax benefit under Part VII of the 1992 Act as amended by the Local Government and Finance Act 1992 (c. 14), section 103 and Schedule 9;

“disability living allowance” means a disability living allowance under Part III of the 1992 Act;

“disability working allowance” means a disability working allowance under section 123 of that Act;

“earnings” has the meaning given by regulation 21 or, as the case may be, 23;

“employed earner” shall be construed in accordance with section 2(1)(a) of the 1992 Act;

“family” means—

- (a) a married or unmarried couple;
- (b) a married or unmarried couple and a member of the same household for whom one of them is or both are responsible and who is a child or a young person;
- (c) a person who is not a member of a married or unmarried couple and a member of the same household for whom that person is responsible and who is a child or a young person;

“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992, or, in Scotland, on 10th April 1992;

“health authority” has the same meaning as in section 128(1) of the National Health Service Act 1977(4);

“housing benefit” means housing benefit under Part VII of the 1992 Act;

“income-related benefit” means any benefit to which section 123 of that Act refers;

“income support” means income support under Part VII of that Act;

“the Independent Living (Extension) Fund” means the Trust of that name established by a deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;

“the Independent Living Fund” means the charitable trust established out of funds provided by the Secretary of State for the purpose of providing financial assistance to those persons incapacitated by or otherwise suffering from very severe disablement who are in need of such assistance to enable them to live independently;

“the Independent Living (1993) Fund” means the Trust of that name established by a deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;

“the Independent Living Funds” means the Independent Living Fund, the Independent Living (Extension) Fund and the Independent Living (1993) Fund;

“invalid carriage or other vehicle” means a vehicle propelled by petrol engine or electric power supplied for use on the road and to be controlled by the occupant;

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(4) 1977 c. 49; this definition was substituted by paragraph 11 of Schedule 3 to the Health and Social Security Act 1984 (c. 48).

“local authority” means—

- (a) in relation to England and Wales, the council of a district or London borough, the Common Council of the City of London or the Council of the Isles of Scilly; and
- (b) in relation to Scotland, an islands or district council;

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

“lower rate” where it relates to rates of tax has the same meaning as in the Income and Corporation Taxes Act 1988 by virtue of section 832(1) of that Act<sup>(5)</sup>;

“the MacFarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

“the MacFarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990, partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

“the MacFarlane (Special Payments) (No.2) Trust” means the trust of that name, established on 3rd May 1991, partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“the MacFarlane Trusts” means the MacFarlane Trust, the MacFarlane (Special Payments) Trust and the MacFarlane (Special Payments) (No.2) Trust;

“married couple” has the meaning given by section 137(1) of the 1992 Act;

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part III of the Employment Protection (Consolidation) Act 1978<sup>(6)</sup>;

“member of a couple” means a member of a married or unmarried couple;

“mobility supplement” means a supplement to which paragraph 7 of Schedule 3 refers;

“net earnings” means such earnings as are determined in accordance with regulation 22;

“net profit” means such profit as is determined in accordance with regulation 24;

“non-dependant” has the meaning given by regulation 4;

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“partner” means—

- (a) where a person is a member of a married or unmarried couple, the other member of that couple; or
- (b) where a person is polygamously married to two or more members of his household, any such member;

“payment” includes part of a payment;

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(5) 1988 c. 1; the definition of “lower rate” was added by the Finance Act 1992 (c. 20), section 9.

(6) 1978 c. 44; section 33 was amended by the Social Security Act 1986 (c. 50), sections 49 and 86 and Schedules 4, 10 and 11; the Employment Act 1980 (c. 42), sections 11 and 20 and Schedule 2; the Nurses, Midwives and Health Visitors Act 1979 (c. 36), section 23(4) and Schedule 7. Sections 34 to 44 were repealed, with savings, by the Social Security Act 1986, sections 49(3), 86(2) and Schedules 4 and 11. Section 45 has been amended prospectively by the Social Security Act 1989 (c. 24), section 23 and Schedule 5 paragraph 15; Schedule 5 paragraph 15 has been repealed prospectively by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 51 and Schedule 10. Section 47 was amended by the Employment Act 1980 (c. 42), section 11(3). Part III of the 1978 Act has been amended prospectively by the Trade Union Reform and Employment Rights Act 1993, sections 23 and 25 and Schedules 2 and 3.

“personal pension scheme” has the same meaning as in section 191 of the Social Security Administration Act 1992(7) and, in the case of a self-employed earner, includes a scheme approved by the Board of Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(8);

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;

“qualifying person” means a person in respect of whom payment has been made from the Fund;

“rates” means—

- (a) in relation to England and Wales, any amount payable under any of sections 43, 45 or 54 of the Local Government Finance Act 1988(9) (non-domestic rates) and includes any sum payable on account of any such amount; and
- (b) in relation to Scotland, any amount payable under section 3 of the Abolition of Domestic Rates Etc.(Scotland) Act 1987(10) (non-domestic rates) and includes any sum payable on account of any such amount;

“relevant person” has the meaning given by regulation 3;

“remunerative work” has the meaning given by regulation 5;

“self-employed earner” shall be construed in accordance with section 2(1)(b) of the 1992 Act;

“single person” means a person who neither has a partner nor is a lone parent;

“social fund payment” means a payment pursuant to Part VIII of the 1992 Act;

“student” has the meaning given in regulation 38;

“supplementary benefit” means a supplementary pension or allowance under section 1 or 4 of the Supplementary Benefits Act 1976(11)

“training allowance” has the meaning given by regulation 2(1) of the Housing Benefit (General) Regulations 1987(12)

“unmarried couple” means a man and woman who are not married to each other but are living together as husband and wife;

“war disablement pension” and “war widow’s pension” have the meanings respectively given by section 150(2) of the 1992 Act;

“water charges” means —

- (a) in relation to England and Wales, any water and sewerage charges under Chapter I of Part V of the Water Industry Act 1991(13) ;

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(7) 1992 c. 5; section 191 was amended by section 190 of, and Schedule 8 to, the Pension Schemes Act 1992 (c. 48).

(8) 1988 c. 1.

(9) 1988 c. 41; section 43 was amended by paragraph 60 of Schedule 13 to the Local Government Finance Act 1992 (c. 14); section 45 was amended by paragraph 23 of Schedule 5 to the Act and by paragraph 63 of Schedule 13 to the Local Government Finance Act 1992.

(10) 1987 c. 47.

(11) 1976 c. 71; sections 1 and 4 were repealed by the Social Security Act 1986 (c. 50), section 86(2) and Schedule 11.

(12) S.I. 1987/1971; the definition was inserted by S.I. 1990/546, and amended by S.I. 1991/387 and 1992/432.

(13) 1991 c. 56; sections 148 and 149 were amended and section 150A inserted by the Competition and Services (Utilities) Act 1992 (c. 43).

- (b) in relation to Scotland, any water and sewerage charges under Schedule 5 to the Abolition of Domestic Rates Etc.(Scotland) Act 1987(14), or any water charges under Part I of Schedule 11 to the Local Government Finance Act 1992(15),

in so far as such charges are in respect of the dwelling which a person occupies as his only or main residence;

“year of assessment” has the meaning given by section 832(1) of the Income and Corporation Taxes Act 1988(16);

“young person” means a person, not being a person who is in receipt of income support or a person who is receiving advanced education within the meaning of regulation 12(2) of the Income Support (General) Regulations 1987(17) (relevant education), aged 16 or over but under 19 who is treated as a child for the purposes of section 142 of the 1992 Act (meaning of child).

(2) For the purposes of these Regulations, two persons shall be taken to be estranged only if their estrangement constitutes a breakdown of the relationship between them.

(3) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered Part is to the Part of these Regulations bearing that number;
- (b) to a numbered regulation or Schedule is to the regulation in, or the Schedule to, these Regulations bearing that number;
- (c) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (d) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

### **Definition of relevant person**

**3.—**(1) Subject to paragraphs (2) and (3), in respect of any one application a relevant person is any person who—

- (a) is an applicant, or
- (b) is not an applicant but is entitled to make the application and lives or intends to live in the dwelling or, as the case may be, a flat in the building or,
- (c) where the application is for a disabled facilities grant, is the disabled occupant or one of the disabled occupants and is neither a person to whom sub-paragraph (a) or (b) applies nor a child or young person.

(2) Where any of sub-paragraphs (a), (b) or (c) of paragraph (1) applies to both members of a couple or to more than one member of a polygamous marriage, one member only of that couple or of that polygamous marriage shall be a relevant person in respect of that application.

(3) A young person shall not be a relevant person except where he is the only applicant.

### **Definition of non-dependant**

**4.—**(1) In these Regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a relevant person.

(2) This paragraph applies to—

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(14) 1987 c. 47.

(15) 1992 c. 14.

(16) 1988 c. 1.

(17) S.I. 1987/1967; regulation 12 was substituted by regulation 5 of S.I. 1990/547 and amended by S.I. 1992/2155 and 1993/2119.

- (a) any member of the relevant person’s family;
  - (b) if the relevant person is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
  - (c) a child or young person who is living with the relevant person but who is not a member of his household by virtue of regulation 7 (membership of the same household);
  - (d) subject to paragraph (3), a person who jointly occupies the relevant person’s dwelling and is either a co-owner of that dwelling with the relevant person or his partner (whether or not there are other co-owners) or is liable with the relevant person or his partner to make payments in respect of his occupation of the dwelling;
  - (e) subject to paragraph (3)—
    - (i) any person who is liable to make payments on a commercial basis to the relevant person or the relevant person’s partner in respect of the occupation of the dwelling,
    - (ii) any person to whom or to whose partner the relevant person or the relevant person’s partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling, or
    - (iii) any other member of the household of the person to whom or to whose partner the relevant person or the relevant person’s partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling;
  - (f) a person who lives with the relevant person in order to care for him or a partner of his and who is engaged by a charitable or voluntary body (other than a public or local authority) which makes a charge to the relevant person or his partner for the services provided by that person.
- (3) Excepting persons to whom sub-paragraphs (a) to (c) and (f) of paragraph 2 refer, a person shall be a non-dependant if he resides with a relevant person to whom he is liable to make payments in respect of the dwelling and either—
- (a) that relevant person is a close relative of his or his partner, or
  - (b) the tenancy or other agreement between them is other than on a commercial basis.
- (4) For the purposes of this regulation—
- (a) a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord;
  - (b) “communal area” means an area, other than a room or rooms, of common access (including halls and passageways).

### **Remunerative work**

5.—(1) Subject to the following provisions of this regulation, a person shall be treated for the purposes of these Regulations as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.

(2) In determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked over

- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does not work, those periods but disregarding any other absences);

(b) in any other case, the period of 5 weeks immediately prior to the date of the application, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

(3) Where no recognisable cycle has been established in respect of a person's work, regard shall be had to the number of hours or, where those hours fluctuate, the average of the hours, which he is expected to work in a week.

(4) A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(5) A person in receipt of income support for more than 3 days in any period of 7 consecutive days commencing upon a Monday and ending on a Sunday shall be treated as not being in remunerative work in that week.

(6) A person shall not be treated as engaged in remunerative work on any day on which that person is on maternity leave or is absent from work because he is ill.

#### **Circumstances in which a person is to be treated as responsible or not responsible for another**

6.—(1) Subject to the following provisions of this regulation a person shall be treated as responsible for a child or young person who is normally living with him.

(2) Where there is a question as to which person a child or young person is normally living with, the child or young person shall be treated for the purposes of paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of him; or
- (b) if there is no such person—
  - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
  - (ii) in any other case the person who has the primary responsibility for him.

(3) For the purposes of these Regulations any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

#### **Circumstances in which a person is to be treated as being or not being a member of the household**

7.—(1) Subject to paragraphs (2) to (4), a relevant person and any partner and, where the relevant person or his partner is treated as responsible by virtue of regulation 6 for a child or young person, that child or young person and any child of that child or young person, shall be treated as members of the same household notwithstanding that any of them is temporarily living away from the other members of his family.

(2) Paragraph (1) shall not apply to a person who is living away from the other members of his family where—

- (a) that person does not intend to resume living with the other members of his family; or
- (b) his absence from the other members of his family is likely to exceed 52 weeks, unless there are exceptional circumstances (for example where the person is in hospital or otherwise has no control over the length of his absence) and the absence is unlikely to be substantially more than 52 weeks.

(3) A child or young person shall not be treated as a member of the relevant person's household where he is—

- (a) placed with the relevant person or his partner by a local authority under section 23(2)(a) of the Children Act 1989(18) or by a voluntary organisation under section 59(1)(a) of that Act; or
  - (b) placed with the relevant person or his partner prior to adoption; or
  - (c) placed for adoption with the relevant person or his partner pursuant to a decision under the Adoption Agencies Regulations 1983(19) or the Adoption Agencies (Scotland) Regulations 1984(20).
- (4) Subject to paragraph (5), paragraph (1) shall not apply to a child or young person who is not living with the relevant person and who—
- (a) is being looked after by a local authority under a relevant enactment; or
  - (b) has been placed with a person other than the relevant person prior to adoption; or
  - (c) has been placed for adoption pursuant to a decision under the Adoption Agencies Regulations 1983 or the Adoption Agencies (Scotland) Regulations 1984.
- (5) A child or young person to whom paragraph (3)(a) applies shall be treated as being a member of the relevant person’s household in any period of 7 consecutive days commencing upon a Monday and ending on a Sunday where—
- (a) that child or young person lives with the relevant person for part or all of that period, and
  - (b) it is reasonable to do so taking into account the nature and frequency of that child’s or young person’s visits.
- (6) In this regulation “relevant enactment” means the Army Act 1955(21), the Air Force Act 1955(22), the Naval Discipline Act 1957(23), the Adoption Act 1958(24), the Matrimonial Proceedings (Children) Act 1958(25), the Social Work (Scotland) Act 1968(26), the Family Law Reform Act 1969(27), the Children and Young Persons Act 1969(28), the Matrimonial Causes Act 1973(29), the Guardianship Act 1973(30), the Children Act 1975(31), the Domestic Proceedings and Magistrates' Courts Act 1978(32), the Adoption (Scotland) Act 1978(33), the Child Care Act 1980(34), the Family Law Act 1986(35) and the Children Act 1989(36).

### **The applicable amount**

- 8.—(1) The applicable amount in respect of any one application shall be the aggregate of—
- (a) the total of the weekly applicable amounts of all those persons who are relevant persons in the case of that application, and
  - (b) £40.

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(18) 1989 c. 41; section 23 was amended by the Courts and Legal Services Act 1990 (c. 41), section 116 and Schedule 6.

(19) S.I. 1983/1964.

(20) S.I. 1984/988.

(21) 1955 c. 18.

(22) 1955 c. 19.

(23) 1957 c. 53.

(24) 1958 c. 5.

(25) 1958 c. 40.

(26) 1968 c. 49.

(27) 1969 c. 46.

(28) 1969 c. 54.

(29) 1973 c. 18.

(30) 1973 c. 29.

(31) 1975 c. 72.

(32) 1978 c. 22.

(33) 1978 c. 28.

(34) 1980 c. 5.

(35) 1986 c. 55.

(36) 1989 c. 41.



- (2) For the purposes of paragraph (1), the weekly applicable amount—
- (a) as regards a relevant person who is in receipt of income support, is £1;
  - (b) as regards any other relevant person, is the amount determined in his case in accordance with regulation 12 (applicable amounts).

**Financial resources**

**9.** In respect of any one application, the amount which is to be taken to be the financial resources of the applicant or applicants shall be the total of the incomes of all those persons who are relevant persons in the case of that application, and the income of each relevant person shall be determined in accordance with regulation 16 (determination of income on a weekly basis).