
STATUTORY INSTRUMENTS

1997 No. 2434

SOCIAL SECURITY

**The Housing Benefit and Council Tax Benefit
(General) Amendment (No. 2) Regulations 1997**

<i>Made</i>	- - - -	<i>8th October 1997</i>
<i>Laid before Parliament</i>		<i>13th October 1997</i>
<i>Coming into force</i>	- -	<i>3rd November 1997</i>

The Secretary of State for Social Security, in exercise of powers conferred by sections 5(1)(h), (n), (o) and (p) and (6), 6(1)(n), 63(2) and (3), 189(1) and (3) to (6) and 191 of the Social Security Administration Act 1992(1), and of all other powers enabling her in that behalf, after consultation with organisations appearing to her to be representative of the authorities concerned(2) and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(3), hereby makes the following Regulations—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit (General) Amendment (No. 2) Regulations 1997 and shall come into force on 3rd November 1997.

(2) In these Regulations—

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(4);

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(5).

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- (1) 1992 c. 5; section 5(1)(n) has effect in relation to housing benefit in accordance with section 5(4) of the Social Security Administration Act 1992; section 5(6) was inserted by the Housing Act 1996 (c. 52) section 120(1); section 6(1)(n) was amended by the Local Government Finance Act 1992 (c. 14), Schedule 9, paragraph 12(1)(c) and Schedule 14; sections 63(2) and (3) were also amended by the Act of 1992, Schedule 9, paragraph 14(2); section 191 is an interpretation provision and is cited because of the meaning ascribed to the word “prescribe”.
- (2) See the Social Security Administration Act 1992, section 176(1).
- (3) See the Social Security Administration Act 1992, section 173(1)(b).
- (4) S.I. 1992/1814 to which there are amendments not relevant to these Regulations.
- (5) S.I. 1987/1971 to which there are amendments not relevant to these Regulations.

Landlord as a fit and proper person

2.—(1) In regulation 93 of the Housing Benefit Regulations⁽⁶⁾ (circumstances in which payment is to be made to a landlord), after paragraph (2) there shall be added the following paragraph—

“(3) Where the appropriate authority is not satisfied that the landlord is a fit and proper person to be the recipient of a payment of rent allowance no such payment shall be made direct to him under paragraph (1).”.

(2) In regulation 94 of the Housing Benefit Regulations⁽⁷⁾ (circumstances in which payment may be made to a landlord) in paragraph (1) after the words “does not apply” there shall be inserted the words “but subject to paragraph (1B)”, and after paragraph (1A) there shall be inserted the following paragraph—

“(1B) In a case where the appropriate authority is not satisfied that the landlord is a fit and proper person to be the recipient of a claimant’s rent allowance, the authority may either—

- (a) not make direct payments to the landlord in accordance with paragraph (1), or
- (b) make such payments to the landlord where the authority is satisfied that it is nonetheless in the best interests of the claimant and his family that the payments be made.”.

(3) In regulation 95 of the Housing Benefit Regulations (withholding of benefit)—

(a) after paragraph (1) there shall be inserted the following paragraphs—

“(1A) An appropriate authority may withhold payment of rent allowance which it would otherwise make to a landlord in accordance with regulation 93(1) or 94(1), where the authority has evidence which raises a reasonable doubt as to whether the landlord is a fit and proper person to be the recipient of such payments.

(1B) An appropriate authority may withhold rent allowance payable to a claimant where the question whether payment be made to the landlord under regulation 93 or regulation 94 is for determination by the authority.”.

(b) after paragraph (6) there shall be inserted the following paragraphs—

“(6A) In a case to which paragraph (1A) applies, the authority shall within 14 days of the doubt arising, or such longer period as may be appropriate in the circumstances of the case, satisfy itself as to whether the landlord is a fit and proper person to be the recipient of payments of rent allowance, and—

- (a) if it is so satisfied and that regulation 93 or, as the case may be, regulation 94, also continues to be satisfied, pay any payments withheld to which the claimant is entitled to the landlord under regulation 93 or regulation 94 as appropriate; or
- (b) if it is so satisfied but the requirements of regulation 93 or, as the case may be, regulation 94 are no longer satisfied, or if it is not so satisfied—
 - (i) pay that amount to the claimant; or
 - (ii) where these Regulations enable it to do so, make such other arrangements for the payment of that amount as appear appropriate in the circumstances of the case.

(6B) In a case to which paragraph (1B) applies, the authority shall determine the question arising under regulation 93 or regulation 94 within 14 days of its determination to withhold payment of rent allowance from the claimant or such longer period as may be appropriate in the circumstances of the case, and

(6) Regulation 93 was amended by S.I. 1997/65.

(7) The relevant amending instrument is S.I. 1994/2137.

- (a) where it determines that payments be made to the landlord in accordance with regulation 93 or, as the case may be, regulation 94, pay those payments withheld to the landlord; or
- (b) where it determines that payments shall not be made to the landlord—
 - (i) pay those payments withheld to the claimant; or
 - (ii) where these Regulations enable it to do so, make such other arrangements for the payment of the amount withheld as appear appropriate in the circumstances of the case.”.

Suspension of Housing Benefit

3. In the Housing Benefit Regulations, after regulation 96 there shall be inserted the following regulation—

“Suspension of Benefit

96A.—(1) Payment of housing benefit may be suspended by the authority making the payment where it appears to the authority that a question has arisen as to whether the conditions of entitlement to housing benefit are fulfilled.

(2) Where payment of housing benefit is suspended in accordance with paragraph (1), the appropriate authority shall require the claimant whose benefit is suspended to furnish such information in connection with that question as may be reasonable in the circumstances, and the claimant shall comply with that requirement within 4 weeks of being required to do so, or within such longer period as the appropriate authority considers reasonable in his case.

(3) Notwithstanding paragraph (2), a claimant shall not be required to supply any information in relation to a payment to which regulation 73(3) (payments from certain funds) applies.

(4) An appropriate authority shall, within 7 days of suspending benefit in accordance with paragraph (1), or as soon as may be reasonably practicable thereafter, notify the claimant of—

- (a) its determination to suspend payment of housing benefit; and
- (b) its requirements as to the provision of information.

(5) An appropriate authority to whom information is provided in accordance with this regulation may, after considering the information provided, require the claimant to provide such further information as is reasonable in the circumstances of the case, and where it does so, the same requirements and restrictions apply to the information required under this paragraph as applied to the information required under paragraph (2).

(6) Where paragraph (7) applies an appropriate authority shall, within 14 days of the date the last of the information required under this regulation is received or as soon as reasonably practicable thereafter, either—

- (a) review the award of housing benefit to the claimant in accordance with regulation 79(1); or
- (b) restore payment of housing benefit to the claimant including any payment which accrued during the period of suspension.

(7) This paragraph applies where—

- (a) an appropriate authority requires a claimant to provide information in accordance with this regulation;
- (b) that information has been provided; and

(c) the authority does not require further information from him in accordance with paragraph (5).

(8) In a case where a requirement to provide information has not been complied with within 4 weeks of its imposition or such longer period (not exceeding 13 weeks) as the appropriate authority considers appropriate in the circumstances of the particular case, the authority shall review the award of housing benefit and the review shall be treated for the purposes of this Part of these Regulations as if it had been made under regulation 79(1).

(9) For the purposes of paragraph (8) the period of 4 weeks, or such longer period as may be determined by the authority, shall begin on the day following the day on which the last or only requirement which has not been complied with was imposed.

(10) Where—

- (a) payment of a claimant’s housing benefit is suspended;
- (b) his benefit period comes to an end whilst the suspension is in force; and
- (c) no further claim for housing benefit has been received by the appropriate authority before the end of the benefit period,

the appropriate authority shall invite the claimant to make a further claim for benefit and any claim made within 4 weeks of the end of the benefit period shall have effect immediately after the end of that benefit period.

(11) In this regulation information includes evidence, certificates and documents.”.

Notice of determination where direct payment made to landlords

4.—(1) Part IV of Schedule 6 to the Housing Benefit Regulations (matters to be included in the notice of determination) shall be amended in accordance with the following paragraphs.

(2) In paragraph 11 for the words following “notice of determination” to the end of the paragraph, there shall be substituted the words—

“shall include a statement—

- (a) as to the amount of housing benefit which is to be paid direct to the landlord and the date from which it is to be paid; and
- (b) informing the landlord of the duty imposed upon him to notify the local authority of—
 - (i) any change in circumstances which might affect the claimant’s entitlement to housing benefit, or the amount of housing benefit payable in his case; and
 - (ii) the kind of change of circumstances which is to be notified,and the notice shall be sent both to the claimant and to the landlord.”.

(3) After paragraph 11 there shall be inserted the following paragraph—

“11A. In this Part, “landlord” has the same meaning as in regulation 93.”.

Suspension of Council Tax Benefit

5. In the Council Tax Benefit Regulations, after regulation 81, there shall be inserted the following regulation—

“Suspension of benefit

81A.—(1) Payment of council tax benefit, or a person’s right to make a reduction from the amount of his liability for council tax, may be suspended by the authority making the payment, or granting the right, where it appears to the authority that a question has arisen as

to whether the conditions for entitlement to council tax benefit are fulfilled (in this regulation referred to as a “suspension”).

(2) An authority which has made a suspension shall require the claimant to whom it applies to furnish such information in connection with that question as may be reasonable in the circumstances, and the claimant shall comply with that requirement within 4 weeks of being required to do so, or within such longer period as that authority considers reasonable in his case.

(3) Notwithstanding paragraph (2), a claimant shall not be required to supply any information in relation to a payment to which regulation 63(3) (payments from certain funds) applies.

(4) An appropriate authority shall, within 7 days of the suspension, or as soon as may be reasonably practicable thereafter, notify the claimant of—

- (a) its determination to suspend payment of council tax benefit or the right to make a reduction from the amount of his liability for council tax; and
- (b) its requirements as to the provision of information.

(5) An appropriate authority to whom information is provided in accordance with this regulation may, after considering the information provided, require the claimant to provide such further information as is reasonable in the circumstances of the case, and where it does so, the same requirements and restrictions apply to the information required under this paragraph as applied to the information required under paragraph (2).

(6) Where paragraph (7) applies, an appropriate authority shall, within 14 days of the date the last of the information required under this regulation is received or as soon as reasonably practicable thereafter, either—

- (a) review the award of council tax benefit to the claimant in accordance with regulation 69(1); or
- (b) restore to the claimant payments of council tax benefit or the right to make a reduction from the amount of his liability for council tax, including any such payment or right to reduction which accrued during the suspension.

(7) This paragraph applies where—

- (a) an appropriate authority requires a claimant to provide information in accordance with this regulation;
- (b) that information has been provided; and
- (c) the authority does not require further information from him in accordance with paragraph (5).

(8) In a case where a requirement to provide information has not been complied with within 4 weeks of its imposition or such longer period (not exceeding 13 weeks) as the appropriate authority considers appropriate in the circumstances of the particular case, the authority shall review the award of council tax benefit and the review shall be treated for the purposes of this Part of these Regulations as if it had been made under regulation 69(1).

(9) For the purposes of paragraph (8), the period of 4 weeks, or such longer period as may be determined by the authority, shall begin on the day following the day on which the last or only requirement which has not been complied with was imposed.

(10) Where—

- (a) an appropriate authority has imposed a suspension;
- (b) the claimant’s benefit period comes to an end whilst the suspension is in force; and

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(c) no further claim for council tax benefit has been received by the appropriate authority before the end of the benefit period,
the appropriate authority shall invite the claimant to make a further claim for benefit and any claim made within 4 weeks of the end of the benefit period shall have effect immediately after the end of that benefit period.

(11) In this regulation “information” includes evidence, certificates and documents.”.

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

8th October 1997

John Y. Denham
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the [Housing Benefit \(General\) Regulations 1987 \(No. 1971\)](#) and the [Council Tax Benefit \(General\) Regulations 1992 \(No. 1814\)](#).

In the case of housing benefit, they—

- require local authorities to inform landlords to whom direct payments of benefit are made of their duty to report changes of circumstances which might affect the claimant's entitlement to benefit (regulation 4);
- introduce a requirement that direct payments may be made to landlords only where the landlord is a fit and proper person to be the recipient of such payments or a local authority is nonetheless satisfied that it is in the claimant's interest to do so, (regulation 2).

The Regulations also introduce provisions enabling local authorities to suspend housing benefit and council tax benefit where a question arises as to whether the conditions of entitlement are or were satisfied and further enable local authorities to require the claimant to provide them with information or evidence in connection with that question. A failure to provide the information or evidence within a period of 4 weeks is a ground for review of the award (regulations 3 and 5).

These Regulations do not impose a charge on businesses.