

1995 No. 1644

SOCIAL SECURITY

The Housing Benefit (General) Amendment
Regulations 1995

<i>Made</i> - - - -	28th June 1995
<i>Laid before Parliament</i>	29th June 1995
<i>Coming into force</i>	2nd January 1996

The Secretary of State for Social Security, in exercise of powers conferred upon him by sections 123(1)(d), 130(2) to (5), 135(1), 137(1) and 175(1) and (3) to (6) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1), 63(1) to (3), 136(2), 189(1) and (4) to (6) and 191 of the Social Security Administration Act 1992(b) and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee(c) and after consultation with organisations appearing to him to be representative of the authorities concerned(d), hereby makes the following Regulations:

Citations, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (General) Amendment Regulations 1995 and shall come into force on 2nd January 1996.

(2) In these Regulations—

- (a) “the Principal Regulations” means the Housing Benefit (General) Amendment Regulations 1987(e) and expressions used in these Regulations and in the Principal Regulations shall have, unless the context otherwise requires, the same meaning in these Regulations as they have in the Principal Regulations; and
- (b) a reference to a numbered regulation is to the regulation in these Regulations bearing that number and, unless the context otherwise requires, a reference in a regulation to a numbered paragraph is to the paragraph bearing that number in that regulation.

[Regulation 2 amends reg. 2(1) of S.I. 1987/1971.]

[Regulation 3 amends reg. 8(1) of S.I. 1987/1971.]

[Regulation 4 (subject to savings in regulations 10 and 11) amends reg. 10 of S.I. 1987/1971.]

[Regulation 5 (subject to savings in regulations 10 and 11) substitutes reg. 11 of S.I. 1987/1971.]

[Regulation 6 amends reg. 12A of S.I. 1987/1971.]

[Regulation 7 amends reg. 61 of S.I. 1987/1971.]

(a) 1992 c. 4; s. 137(1) is cited because of the meaning there ascribed to “prescribed”.

(b) 1992 c. 5; s. 191 is cited because of the meaning there ascribed to “prescribe”.

(c) See s. 172(1) of the Social Security Administration Act 1992.

(d) See s. 176(1) of the Social Security Administration Act 1992.

(e) S.I. 1987/1971; relevant amendments are S.I. 1988/1971, 1990/546, 1549, 1992/432, 1993/317, 518, 1249, 2118, 1994/578, 1995/560 and 625.

[Regulation 8 amends reg. 79 of S.I. 1987/1971.]

[Regulation 9 amends Sch. 1A to S.I. 1987/1971. The amendment made by regulation 9(2) did not take effect, having been superseded by regulation 7 of S.I. 1995/2868.]

Saving Provision

10.—(1) Subject to the following provisions of this regulation, the eligible rent of a person—

- (a) who was entitled to housing benefit on both the first date and the second date; or
- (b) who is liable to make payments in respect of a dwelling occupied by him as his home, which is exempt accommodation.

shall be determined in accordance with regulations 10 and 11 of the Principal Regulations as in force on 1st January 1996 ^Ebut as if any references to a benefit period were references to an award of housing benefit^{EEF}.

Words added to reg. 10(1) by reg. 30 of S.I. 2004/14 as from 5.4.04. Words formerly added to reg. 10(1) ceased to have effect by virtue of reg. 13 of S.I. 1999/2734 as from 7.4.03 where rent is payable at weekly intervals, 1.4.03 in any other case.

Para. (1A) inserted in reg. 10 by reg. 15 of S.I. 2003/2399 as from the date specified in Sch. 1 of that S.I. at page 8.3751.

Words omitted & inserted in reg. 10(2)(b) by reg. 11(2)(a) & (b) of S.I. 1998/2231 as from 5.10.98.

Head (iii) added to reg. 10(2)(b) by reg. 11(2)(c) of S.I. 1998/2231 as from 5.10.98.

Para. (2A) inserted by reg. 11(3) of S.I. 1998/2231 as from 5.10.98.

^E(1A) Paragraph (1)(a) shall not apply to—

- (a) any determination of a person's eligible rent in a case where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 11A(1) of the Principal Regulations; or
- (b) any subsequent determination of his eligible rent.^F

(2) Paragraph (1)(a) shall only apply in a case where—

- (a) either—
 - (i) the dwelling occupied as his home by a person to whom paragraph (1)(a) refers is the same on both the first date and the second date; or
 - (ii) the dwelling so occupied was not the same by reason only that the change was caused by a fire, flood, explosion or natural catastrophe rendering the dwelling occupied as the home on the first date uninhabitable; and
- (b) the person ^{EF}—
 - (i) ^Ewas^F—continuously entitled to and in receipt of housing benefit between the first date and the second date in respect of the dwelling to which sub-paragraph (a) above applies; or
 - (ii) ^Ewas^F not entitled to or receiving housing benefit for a period not exceeding 4 weeks, but was in continuous occupation of the first dwelling to which sub-paragraph (a) above refers between the first date and the second date^Eor
 - (iii) is a person to whom paragraph (2A) applies.^F

^E(2A) This paragraph applies in the case of a person (“ the claimant”) who becomes, or whose partner becomes, a welfare to work beneficiary, and—

- (a) the claimant ceases to be entitled to housing benefit in respect of his residence in the dwelling he occupies as his home;
- (b) the claimant subsequently becomes re-entitled to housing benefit—
 - (i) in respect of the same dwelling, or
 - (ii) in respect of a different dwelling in a case to which paragraph (2)(a)(ii) applies; and
- (c) the first day of that entitlement is within 52 weeks of the claimant or his partner becoming a welfare to work beneficiary.^F

(3) A person shall be deemed to fulfil the requirements of paragraphs (1)(a) and (2), where—

- (a) he occupies the dwelling which he occupied on the relevant date;
- (b) this regulation applies to the previous beneficiary on the relevant date, and
- (c) the requirements of paragraphs (4) and (5) are satisfied in this case.

(4) The requirements of this paragraph are that the person was, on the relevant date,

- (a) the partner of the previous beneficiary; or
- (b) in a case where the previous beneficiary died on the relevant date, was a person to whom paragraph (7)(b), (c) or (d) of regulation 11 of the

Principal Regulations, as in force on 1st January 1996, applied and for the purposes of this paragraph “claimant” in that paragraph of that regulation shall be taken to be a reference to the previous beneficiary.

(5) The requirements of this paragraph are that a claim for housing benefit is made within 4 weeks of the relevant date and where such a claim is made it shall be treated as having been made on the relevant date.

Ⓔ(5A) The eligible rent of a person to whom regulation 7B of and Schedule A1 to the Principal Regulations (entitlement to housing benefit is by refugees) apply, shall be determined in accordance within regulations 10 and 11 of the Principal Regulations as in force on 1st January 1996.^F

Para. 5A inserted into reg. 10 by reg. 14 of S.I. 1996/2432 as from 15.10.96.

Ⓔ(5B) Paragraphs (1) to (5A) above shall continue to have effect in the case of a claimant who has ceased to be a work beneficiary or whose partner has ceased to be such a beneficiary where the claimant is entitled to housing benefit at the end of the 52 week period to which paragraph (2A)(c) refers.^F

Para. (5B) inserted by reg. 11(4) of S.I. 1998/2231 as from 5.10.98.

Ⓔ(5C) Subject to paragraph (5D), paragraphs (1) to (5A) above shall have effect where a claimant has attained the qualifying age for state pension credit as if any references to a benefit period were references to an award of housing benefit.

Paras. (5C) & (5D) inserted in reg. 10 by reg. 22(a) of S.I. 2003/1338 as from 6.10.03.

(5D) Paragraph (5C) shall not apply if the claimant, or if the claimant has a partner, his partner, is a person on income support or on an income-based jobseeker’s allowance within the meaning of the Principal Regulations.^F

(6) In this regulation—

“the first date” means 1st January 1996, except in a case to which paragraph (3) applies, when it shall be the relevant date;

“the second date” means any day after the first date for which a claimant’s entitlement to housing benefit is to be determined;

“the relevant date” means the date—

(i) of the death of a previous beneficiary;

(ii) on which a previous beneficiary who was the claimant’s partner left the dwelling so that he and the claimant ceased to be living together as husband and wife; or

(iii) on which a previous beneficiary, other than a beneficiary to whom regulation 5(8)(a) of the Principal Regulations applied, was imprisoned but only where on that date he was the partner of the claimant,

as the case may be;

“exempt accommodation” means accommodation which is—

Ⓔ(i) a resettlement place provided by persons to whom the Secretary of State has given assistance by way of grant pursuant to section 30 of the Jobseekers Act 1995(b) (grants for resettlement places); and for this purpose “resettlement place” shall have the same meaning as it has in that section; or^F

Sub-para. (i) of defn. of “exempt accommodation” in reg. 10(6) substituted by reg. 6 of S.I. 1996/462 as from 1.4.96.

Ⓔ(ii) provided by non-metropolitan county council in England within the meaning of section 1 of the Local Government Act 1972(c), a housing association, a registered charity or voluntary organisation^{EF} where that body or a person acting on its behalf also provides the claimant with care, support or supervision^F;^F

Head (ii) substituted by reg.17 of S.I. 1998/563 as from 1.4.98.

“imprisoned” means detained in custody pending sentence upon conviction or under a sentence imposed by a court;

“previous beneficiary” means a person—

(i) who died, left the dwelling or was imprisoned, as the case may be;

(ii) who was on that date in receipt of housing benefit^E or was on that date within 52 weeks of having become a welfare to work beneficiary^F; and

Words formerly substituted in reg. 10(6) defn. of “exempt accommodation” head (ii), ceased to have effect by virtue of reg 13 of S.I. 1999/2734 as from 7.4.03 where rent is payable at weekly intervals, 1.4.03 in any other case.

(iii) to whom this regulation applied on that date;

Words substituted in defn. of “exempt accommodation” by reg. 4 of S.I. 2003/363 as from 7.4.03.

and, in this regulation, a reference to a person occupying a dwelling as his home

Words added to defn. of “previous beneficiary” by reg. 11(5)(a) of S.I. 1998/2231 as from 5.10.98.

(a) Reg. 5(8) was amended by S.I. 1995/625.

(b) 1995 c. 18.

(c) 1972 c. 71.

Reg. 11

shall be taken to include a person who is treated as occupying a dwelling as his home by virtue of regulation 5 of the Principal Regulations^(a).

Defns. of “the qualifying age for state pension credit” & “state pension credit” inserted in reg. 10(6) by reg. 22(b) of S.I. 2003/1338 as from 6.10.03.

“the qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002 ^(b)) –

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“state pension credit” means state pension credit under the State Pension Credit Act 2002^F

Defn. of “welfare to work beneficiary” inserted by reg. 11(5)(b) of S.I. 1998/2231 as from 5.10.98.

“welfare to work beneficiary” means a person to whom regulation 13A(1) of the Social Security (Incapacity for Work) (General) Regulations 1995 applies:^F

Transitional Provisions

11.—(1) Subject to the following provisions of this regulation, in any case where, pursuant to the provisions of either–

- (a) paragraph 2 of Schedule 1A (excluded tenancies) to the Principal Regulations; or
- (b) regulation 12A(2)(a) of the Principal Regulations (requirement to refer to rent officers),

an application to a rent officer for a determination in exercise of the Housing Act functions is not required, an authority shall nonetheless apply to a rent officer for such a determination.

(2) Paragraph (1) shall not apply in a case where that application to a rent officer would be due to the receipt of a claim for a rent allowance from a person to whom regulation 10 (saving provision) applies.

(3) Paragraph (1) shall not apply in a case where the rent officer has already made a determination in the exercise of the Housing Act functions, pursuant to an application made under paragraph (1), in respect of that dwelling or of a dwelling in a hostel which is a similar dwelling to the dwelling in respect of which such an application to the rent officer would be made.

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

28th June 1995

Roger Evans
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 (S.I. 1987/1971). These Regulations make and further amend provisions relating to maximum eligible rent in cases where housing benefit is payable, including conferring a discretion on local authorities to pay a lesser sum in appropriate cases (regulations 3, 4 & 5). They also require local authorities to make certain requests for determinations and redeterminations from rent

(a) Relevant amendments are S.I. 1989/1017, 1990/1549, 1991/387, 1992/3147, 1993/317, 1995/560 and 625.

(b) 2002 c.16.

**HOUSING BENEFIT (GENERAL) AMENDMENT
REGULATIONS 1995**

S.I. 1995/1644

officers and provide for their consequences (regulations 6 & 8) and add a discretion to pay more benefit than would otherwise be payable by reason of these Regulations (regulation 7).

These Regulations also make saving provisions in relation to housing benefit claimants whose entitlement to housing benefit commenced before these Regulations come into force (regulation 10) and extend this protection to the partners of such claimants, members of the household of deceased claimants in certain circumstances and occupants of exempt accommodation. They also make transitional provision for additional circumstances in which local authorities shall apply to rent officers for determinations (regulation 11).

These Regulations do not impose a charge on business.

The Report of the Social Security Advisory Committee dated 11th May 1995 on the proposals referred to them, together with a statement showing the extent to which these Regulations give effect to the Report and, in so far as they do not give effect to it, the reasons why not, are contained in Command Paper Cm. 2902, published by Her Majesty's Stationery Office.

