

1997 No. 2436

SOCIAL SECURITY

The Housing Benefit (Information from Landlords and Agents) 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 on her by sections 113, 126A, 189(1) and (4) to (6) and 191 of the Social Security Administration Act 1992(a) and of all other powers enabling her in that behalf, by this instrument, which contains only regulations made by virtue of or consequential upon section 11 of the Social Security Administration (Fraud) Act 1997(b) and is made before the end of the period of six months beginning with the coming into force of that section and after consultation with organisations appearing to her to be representative of the authorities concerned(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations, which may be cited as the Housing Benefit (Information from Landlords and Agents) Regulations 1997, shall come into force on 3rd November 1997.

(2) In these Regulations, unless the context otherwise requires -

“the Act” means the Social Security Administration Act 1992;

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(d);

“the notice” means the notice prescribed in regulation 3(1)(b);

“relevant information” means such information as is prescribed in regulation 4;

“the requirer” means a person within regulation 2, who requires information pursuant to that regulation;

“the section” means section 126A of the Act and references to a subsection are to a subsection of the section;

“the supplier” means an appropriate person who is required, pursuant to regulations 2 and 3, to supply relevant information and any person who is not so required is not, for the purposes of supplying information pursuant to the section and these Regulations, an appropriate person,

and other expressions used both in these Regulations and in the Housing Benefit Regulations shall have the same meanings in these Regulations as they have in the Housing Benefit Regulations.

(a) 1992 c. 5; section 126A was inserted by section 11 of the Social Security Administration (Fraud) Act 1997 (c. 47); section 191 is an interpretation provision and is cited because of the meaning there ascribed to the word “prescribe”.

(b) 1997 c. 47; see section 173(5)(b) of the Social Security Administration Act 1992.

(c) See the Social Security Administration Act 1992 (c. 5), section 176(1).

(d) S.I. 1987/1971.

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(3) In these Regulations 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 or lettered paragraph is to the paragraph bearing that letter or number in that regulation and a reference in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

Requiring information

2. Pursuant to the section, where a claim is made to an authority, on which a rent allowance may be awarded, then, in the circumstances prescribed in regulation 3, that authority, or any person authorised to exercise any function of the authority relating to housing benefit, may require an appropriate person to supply to that authority or person relevant information, in the manner prescribed in regulation 5.

Circumstances for requiring information

3.—(1) A person is required to supply information in the following circumstances -

- (a) he is an appropriate person in relation to any dwelling in respect of which -
 - (i) . . . housing benefit is being paid to an appropriate person pursuant to regulation 93 or 94 of the Housing Benefit Regulations (circumstances in which payment is to be or may be made to a landlord)(a); or
 - (ii) a request has been made by an appropriate person or by the claimant for housing benefit to be so paid; and
- (b) the requirer serves upon that appropriate person, whether by post or otherwise, a written notice stating that the requirer -
 - (i) suspects that there is or may be an impropriety in relation to a claim in respect of any dwelling wherever situate in relation to which he is an appropriate person; or
 - (ii) is already investigating an allegation of impropriety in relation to that person.

(2) Information required to be supplied under paragraph (1) shall be supplied to the requirer at the address specified in the notice.

Relevant information

4.—(1) The information the supplier is to supply to the requirer is that prescribed in paragraphs (2) and (3) (referred to in these Regulations as “the relevant information”).

(2) For a supplier who falls within paragraph (4) or sub-section (2)(b) (“the landlord”), the information is -

- (a) where the landlord is a natural person -
 - (i) his appropriate details;
 - (ii) the relevant particulars of any residential property in which he has an interest; and
 - (iii) the appropriate details of any body corporate, in which he is a major shareholder or of which he is a director and which has an interest in residential property;
- (b) where the landlord is a trustee, except a trustee of a charity, in addition to any information that he is required to supply in accordance with sub-paragraph (a) or (c), as the case may be, the relevant particulars of any residential property held by the trust of which he is a trustee and the name and address of any beneficiary under the trust or the objects of that trust, as the case may be;
- (c) where the landlord is a body corporate or otherwise not a natural person, other than a charity -
 - (i) its appropriate details;
 - (ii) . the relevant particulars of any residential property in which it has an interest;
 - (iii) the names and addresses of any directors of it;
 - (iv) the appropriate details of any person -

(a) Regulation 93 was amended by S.I. 1990/546, 1996/1510 and 1997/2434 and regulation 94 was amended by S.I. 1994/2137, 1996/965 and 1997/2434.

- (aa) who owns 20 per cent. or more of it; or
- (bb) of whom it owns 20 per cent. or more; and
- (v) the names and addresses of its major shareholders.
- (d) where the landlord is a charity or is a recognised body the appropriate details relating to the landlord and particulars of the landlord's registration as a charity.

(3) For a supplier who falls within subsection (2)(c) or paragraph (5) ("the agent"), the information is -

- (a) the name and address of any person ("his principal") -
 - (i) to whom the agent has agreed to make payments in consequence of being entitled to receive relevant payments; or
 - (ii) . . . for whom the agent is acting on behalf of or in connection with any aspect of the management of a dwelling, as the case may be;
- (b) the relevant particulars of any residential property in respect of which the agent -
 - (i) has agreed to make payments in consequence of being entitled to receive relevant payments; or
 - (ii) is acting on behalf of his principal in connection with any aspect of its management;
- (c) where the agent is a natural person -
 - (i) the relevant particulars of any residential property in which he has an interest;
 - (ii) the appropriate details of any body corporate or any person otherwise not a natural person, in which he is a major shareholder or of which he is a director and which has any interest in residential property; or
- (d) where the agent is a body corporate or other than a natural person -
 - (i) . the relevant particulars of any residential property in which it has an interest;
 - (ii) the names and addresses of any directors of or major shareholders in the agent; and
 - (iii) the appropriate details of any person -
 - (aa) who owns 20 per cent. or more of the agent; or
 - (bb) of whom the agent owns 20 per cent. or more.

(4) A supplier falls within this paragraph (landlord receiving the rent), if he falls within subsection (2)(a), but does not fall within paragraph (5).

(5) A supplier falls within this paragraph (agent receiving the rent), if he falls within subsection (2)(a) and has agreed to make payments, in consequence of being entitled to receive relevant payments, to a person falling within subsection (2)(b).

(6) For the purposes of this regulation, except where the context otherwise requires -

"appropriate details" means the name of the person and (in the case of a company) its registered office and, in any case, the full postal address, including post code, of the principal place of business of that person and the telephone and facsimile numbers (if any) of that place;

"charity" means a charity which is registered under section 3 of the Charities Act 1993(a) and is not an exempt charity within the meaning of that Act;

"major shareholder" means, where a body corporate is a company limited by shares, any person holding one tenth or more of the issued shares in that company and, in any other case, all the owners of that body;

"recognised body" has the same meaning as in section 1(7) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(b);

"relevant particulars" means the full postal address, including post code, and number of current lettings of or within that residential property and, if that property includes two or more dwellings, that address and the number of such lettings for each such dwelling;

(a) 1993 c. 10.

(b) 1990 c. 40.

“residential property” includes any premises, situated within the United Kingdom -

- (i) used or which has, within the last six months, been used; or
- (ii) which may be used or is adapted for use,
as residential accommodation,

and other expressions used in this regulation and also in the Companies Act 1985(a) shall have the same meaning in this regulation as they have in that Act.

Manner of supply of information

Reg. 5 substituted by
reg. 2 of S.I. 2000/4
as from 3.2.2000

►5.—(1) Subject to paragraph (2) the relevant information shall be supplied—

- (a) in typewritten or printed form; or
- (b) with the written agreement of the requirer, in electronic or handwritten form,

within a period of 4 weeks commencing on the date on which the notice was sent or given.

(2) Where—

- (a) within a period of 4 weeks commencing on the date on which the notice was sent or given, the supplier requests that the time for supply of the relevant information be extended; and
- (b) the requirer provides written agreement to that request,

the time for supply of the relevant information shall be extended to a period of 8 weeks commencing on the date on which the notice was sent or given◀

Criminal offence

6. Any failure by the supplier to supply relevant information to the requirer as, when and how required under these Regulations shall be an offence under section 113 of the Act and there may be recovered from the supplier, on summary conviction for this offence, penalties not exceeding -

- (a) for any one offence, level 3 on the standard scale; or
- (b) for an offence of continuing any such failure after conviction, £40 for each day on which it is so continued.

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

(a) 1985 c. 6.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement provisions of the Social Security Administration (Fraud) Act 1997. Regulation 2 gives local authorities administering housing benefit and any person exercising such functions for them a power to require certain landlords and their agents to provide information as to their interests in residential property, including that of any associated bodies (regulations 3 and 4).

Regulation 5 makes provision as to the time when and way in which that information is to be provided to the person requiring it.

Regulation 6 makes it a criminal offence to fail to provide such information, punishable by a fine at level 3 (currently £1,000), plus, for a continuing offence after conviction, a daily penalty of £40 for each day on which it continues.

An assessment of the costs to business of applying the provisions of section 11 of the Social Security Administration (Fraud) Act 1997 was placed in the Libraries of both Houses of Parliament on 24 January 1997 when the amendment inserting section 11 in the Social Security Administration Bill was introduced. No changes to that assessment arise from the application of these Regulations. Copies of this assessment can be obtained from the Department of Social Security, Room 5/05A, The Adelphi, 1-11 John Adam Street, London WC2N 6HT (telephone 0171-962-8299).

