

1987 No. 1972

HOUSING, ENGLAND AND WALES

HOUSING, SCOTLAND

RATING AND VALUATION

**The Housing Benefit (Transitional) Regulations
1987**

<i>Made - - - -</i>	<i>20th November 1987</i>
<i>Laid before Parliament</i>	<i>20th November 1987</i>
<i>Coming into force</i>	<i>31st December 1987</i>

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The Secretary of State for Social Services in exercise of the powers conferred on him by sections 84(1) and 89(1) of the Social Security Act 1986(a), and of all other powers enabling him in that behalf, by this instrument which contains only provisions consequential on sections 20, 21, 22, 28, 29 and 51 of that Act and Regulations made under those sections in their application to housing benefit and is made before the end of a period of 12 months from the commencement of those sections after consultation in accordance with section 61(7) of that Act with organisations appearing to him to be representative of the authorities concerned, hereby makes the following Regulations—

(a) 1986 c. 50; section 84(1) is cited because of the meaning assigned to the word “regulations”

Citation, commencement and interpretation

1.—(1) These Regulations, which may be cited as the Housing Benefit (Transitional) Regulations 1987, shall come into force on 31st December 1987.

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

“benefit week” has the same meaning as in regulation 7 of the Supplementary Benefit (Determination of Questions) Regulations 1980(a);

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

“new scheme” means the housing benefit scheme made under section 20(1)(c) of the Social Security Act 1986;

“former housing benefit recipient” means a person who, immediately before the relevant date, was in receipt of a rebate or allowance under an old scheme;

“old scheme” means a scheme made under section 28 or 30 of the Social Security and Housing Benefits Act 1982(c) for granting rate rebates, rent rebates or rent allowances;

and other expressions have the same meaning as in the General Regulations.

(3) For the purposes of these Regulations “relevant date” means—

(a) in any case to which paragraph (4) applies, 1st April 1988; and

(b) in any other case, 4th April 1988.

(4) This paragraph applies to any case where—

(a) rent is payable at intervals of one month or any other interval which is not a week or a multiple thereof; or

(b) payments by way of rates are not made together with payments of rent at weekly intervals or multiples thereof.

(5) Any reference in these Regulations to a “qualifying certificate” is a reference to a certificate of entitlement to housing benefit issued by the Secretary of State under regulation 9(1) of the Housing Benefits Regulations 1985(d) (persons on supplementary benefit) and any reference to a period during which a qualifying certificate is in force shall be construed as a reference to the period beginning with the date recorded on that certificate as the date from which qualifying supplementary benefit becomes payable and ending with the date on which that certificate is cancelled.

(6) For the purposes of regulation 5 of these Regulations “benefit period” has the same meaning as in regulation 2 of the Housing Benefits Regulations 1985 (interpretation).

(7) Unless the context otherwise requires, in these Regulations a reference in a regulation to a numbered paragraph is a reference to the paragraph in that regulation bearing that number.

Transitional provision for claims

2.—(1) A claim for housing benefit under the new scheme may be made during the period of 13 weeks immediately preceding the relevant date, and a claim for a rebate or allowance under an old scheme made during that period may in addition be treated as a claim for housing benefit under the new scheme.

(2) A claim for a rebate or an allowance under an old scheme made, but not determined, before the relevant date—

(a) S.I. 1980/1643; the relevant amending instruments are S.I. 1981/815, 1982/907, 1983/337

(b) S.I. 1987/1971

(c) 1982 c. 24

(d) S.I. 1985/677

- (a) shall remain effective, in respect of any period before that date, as a claim for a rebate or an allowance under an old scheme; and
- (b) shall be treated, in respect of any period after that date, as a claim for housing benefit under the new scheme.

(3) Subject to the provisions of these Regulations, any claim for housing benefit under the new scheme made or treated as made in accordance with paragraphs (1) and (2)(b) may be determined before the relevant date in accordance with the Act and Regulations made under the Act as if those provisions were in force.

(4) Where a claim is made on or after the relevant date in respect of a period before that date the appropriate authority may determine under regulation 72(15) of the General Regulations (backdating claims for good cause) that the claim may be backdated and, in any case where it so determines, entitlement to a rebate or allowance in respect of the period before the relevant date shall be calculated in accordance with the provisions of an old scheme.

(5) Regulation 76(3) of the General Regulations (time within which claims are to be determined) shall not apply to claims for housing benefit under the new scheme made or treated as made under this regulation until 14 days before the relevant date.

(6) In order to determine a person's entitlement to housing benefit under the new scheme, for the purposes of these Regulations, the appropriate authority may require that person to furnish such certificates, documents, information and evidence as it may reasonably require.

Waiver of claims for housing benefit by former recipients

3.—(1) Notwithstanding the provisions of section 165A of the Social Security Act 1975(a) (necessity of claims for entitlement to benefit), the appropriate authority may determine that it shall not be a condition of entitlement to housing benefit under the new scheme for a former housing benefit recipient that a claim for such benefit has been made; and where it so determines the provisions of the Act and regulations made thereunder shall apply, subject to the following provisions of these Regulations, as if a claim for that benefit had been duly made by the former housing benefit recipient in respect of a period commencing on the relevant date.

(2) Where by virtue of paragraph (1) a person's entitlement to housing benefit falls to be determined as if a claim for it had been duly made in respect of a period commencing on the relevant date, it may nevertheless be determined at an earlier date if the former housing benefit recipient is entitled to a rebate or allowance under an old scheme at the date of the determination, any entitlement under the new scheme shall be determined in accordance with the Act and Regulations made under the Act as if those provisions were in force.

(3) A determination which is made awarding housing benefit under the new scheme under paragraph (2)—

- (a) may award that benefit from the relevant date if it appears probable to the appropriate authority that the conditions for entitlement to housing benefit will be satisfied from that date;
- (b) shall be subject to the conditions for entitlement being satisfied on the relevant date;
- (c) may be reviewed if any question arises as to the satisfaction of those conditions.

(a) 1975 c. 14; section 165A is applied by the Social Security Act 1986, Schedule 10, paragraph 48.

Transitional provisions for the calculation of benefit

4.—(1) For any period beginning on or after the relevant date and ending before 11th April 1988, entitlement to housing benefit under the new scheme shall be calculated as if in paragraph 10 of Schedule 3 to the General Regulations (disregards of earnings), paragraph 4 of Schedule 4 to those Regulations (disregards of income other than earnings) and in paragraph 5 of Schedule 5 to those Regulations (capital to be disregarded) there were substituted for the references to income support references to supplementary benefit.

(2) During the period beginning on the relevant date and ending immediately before 11th April 1988, references in the General Regulations to a person on income support shall be construed as references to a person in receipt of supplementary benefit.

(3) For the purpose of determining whether, in any case, the condition for a higher pension premium or disability premium specified in paragraph 12(1)(b) of Schedule 2 to the General Regulations is satisfied in respect of any period before the relevant date, that provision shall be construed as though there were inserted therein, immediately after the reference to the Social Security Act, a reference to the Supplementary Benefits Act 1976(a).

¹Reg. 4A inserted by reg. 2 of S.I. 1988/458 as from 31.3.88.

►¹Payments on account of housing benefit

4A—(1) In the circumstances specified in paragraph (2), payments on account of housing benefit may be made by an appropriate authority for any period ending on or before 30th June 1988 where in accordance with these Regulations—

- (a) a claim for housing benefit under the new scheme is made, or is treated as made, under regulation 2(1) or 2(2)(b) (transitional provision for claims); or
- (b) a claim for a rebate or an allowance is made under an old scheme under regulation 2(2)(a) or is calculated in accordance with the provisions of an old scheme under regulation 2(4),

(2) A payment may be made under paragraph (1) where the claim has not been determined and it is impracticable for the appropriate authority to determine that claim within 14 days of the day on which it is made or treated as made and that impracticability does not arise out of the failure of the claimant, without good cause, to furnish such information, certificates, documents or evidence as the authority requires and has requested.

(3) Any payment on account of housing benefit made under paragraph (1) shall be of such amount as the appropriate authority considers reasonable having regard to such information as it has taken into account in assessing the claimant's circumstances.

(4) Where a payment is made under paragraph (1) a notice shall be served on the claimant to the effect that if, on subsequent determination of the claim, the claimant is not entitled to a rebate or an allowance under an old scheme or to housing benefit under the new scheme, or is entitled to an amount of such a rebate, allowance or benefit which is less than the amount of the payment on account, the whole of the amount paid on account or the excess of that amount over the entitlement to the rebate, allowance or benefit, as the case may be, shall be recoverable.

(5) Without prejudice to any other method of recovery, any amount which is recoverable under paragraph (4) may be recovered by deduction from any housing benefit payable under the new scheme.

(6) An amount which is recoverable under paragraph (4) may be recovered from any person from whom recovery may be sought under regulation 101 of the General Regulations (person from whom recovery may be sought) as though it were an overpayment of housing benefit under the new scheme.

(a) 1976 c. 71; as amended by section 6(1) of, and Part I of Schedule 2 to, the Social Security Act 1980 (c. 30).

(7) Where on a subsequent determination the amount of rebate or allowance under an old scheme or the amount of housing benefit under the new scheme, as the case may be, is more than the amount paid on account under paragraph (1), future payments of housing benefit under the new scheme shall be increased to take account of the underpayment. ◀

Benefit periods

5.—(1) Where a person is entitled to a rebate or allowance immediately before the end of the benefit period which applies in his case and that period expires on or after 1st March 1988 but before the relevant date, the appropriate authority may, if it has reason to think that that person will be entitled to a rebate or allowance under an old scheme until the relevant date, extend the benefit period so that it expires on the relevant date.

(2) In the case of any person to whom regulation 3(1) of these Regulations applies, and in relation to whom a qualifying certificate is not in force, the appropriate authority may treat that person's period under an old scheme as continuing until the date on which it would have ended if it would, but for the termination of that old scheme, have ended on or after the relevant date if that authority has reason to think that the person will be entitled to housing benefit under the new scheme until the end of that benefit period.

Payment

6. During the period beginning 4 weeks before the relevant date and ending 4 weeks after that date the appropriate authority may pay together—

- (a) any rent allowance calculated under an old scheme to which a person is entitled in respect of all or part of the period of 4 weeks falling before the relevant date; and
- (b) any rent allowance calculated under the new scheme to which a person is entitled in respect of all or part of the period of 4 weeks falling on or after the relevant date,

having regard to the time at which and the frequency with which a person's liability to make payment of rent arises and to the reasonable needs and convenience of that person.

Determinations

7.—(1) Where a determination, which is made by the appropriate authority before the relevant date in order that it may be effective from that date, is notified to a person before that date, regulation 79(2) of the General Regulations (representations) shall have effect as though for the reference in that provision to a period of 6 weeks from notification of a determination there were substituted a reference to the period of 6 weeks beginning on the relevant date.

(2) A determination under these Regulations shall be treated for the purposes of regulations 79 to 87 of the General Regulations (reviews) as if it were a determination under those Regulations.

Qualifying certificates

8. The Secretary of State shall continue to issue and cancel qualifying certificates in respect of periods ending before 11th April 1988 as though regulation 9 of the Housing Benefits Regulations 1985 (persons on supplementary benefit) had not ceased to have effect.

Arrangements to pay rebates or allowances to third parties

9. Any arrangements made before the relevant date under regulations 44(2) or (3) of the Housing Benefits Regulations 1985 (persons to whom benefit may or shall be paid) to pay sums to persons other than the beneficiary may be continued, if the appropriate authority so decides, as though those arrangements had been made under regulations 92, 93, or 94 of the General Regulations (payments to nominated persons and landlords).

War pension disregards

10. Where the appropriate authority resolved under section 30(1) of the Social Security and Housing Benefit Act 1982 (local schemes) to modify an old scheme so as to secure an increase in a disregard of a war disablement pension or a war widows pension, that resolution in so far as it relates to that disregard shall continue in force for the purposes of the new scheme until the authority which made that resolution otherwise determines, as if it had so resolved under section 28(6) of the Act.

Overpayments of rebate or allowance under an old scheme

11.—(1) Without prejudice to any other method of recovery, an overpayment of rebate or allowance made to a person by an authority under an old scheme, which was recoverable under an old scheme by an authority, may be recovered by that authority by deduction from any housing benefit payable under the new scheme to any person from whom recovery may be sought under regulation 101 of the General Regulations (person from whom recovery may be sought) as though it were an overpayment of housing benefit under the new scheme.

(2) Where on or before 30th June 1988 an authority becomes aware of an overpayment of a rebate or allowance under an old scheme in respect of a case where a qualifying certificate was in force at the time when the overpayment was made and that authority gives notice in writing to the Secretary of State on or before 30th September 1988 of that overpayment, regulation 48 of the Housing Benefits Regulations 1985 (recovery by the Secretary of State) shall have effect as if the reference in that regulation to an overpayment recoverable under regulation 47 were a reference to an overpayment recoverable under paragraph (1) and as if the benefits specified in paragraph (2) of regulation 48 included any benefit specified in regulation 105(1) of the General Regulations which is not excepted from that paragraph by paragraph (2) of that regulation.

Consequential provisions relating to supplementary benefit

12.—(1) Regulation 19 of the Supplementary Benefit (Requirements) Regulations 1983(a) (housing benefit supplement) shall cease to have effect in relation to any person immediately before the relevant date except that the amount of housing benefit supplement applicable to him under that regulation shall be calculated as if that regulation and the Housing Benefits Regulations 1985 ceased to have effect at the end of his benefit week current immediately before that date.

(2) The following provisions shall cease to have effect immediately before 4th April 1988—

- (a) regulation 5B of the Supplementary Benefit (Determination of Questions) Regulations 1980(b) (determination of amount of water charges);
- (b) regulations 15A of the Supplementary Benefit (Claims and Payments) Regulations 1981(c) (regular payments to third parties for water charges);

(a) S.I. 1983/1399 relevant amending instruments are S.I. 1984/282 and 1986/1293.

(b) S.I. 1980/1643; regulation 5B was inserted by S.I. 1982/914 and amended by S.I. 1983/337, 1984/938.

(c) S.I. 1981/1525, inserted by S.I. 1982/914.

- (c) in paragraph (2) of regulation 18 of the Supplementary Benefit (Requirements) Regulations 1983 (miscellaneous outgoings) the words from “but in the case” to the end of that paragraph.

Signed on behalf of the Secretary of State for Social Services.

20th November 1987

Nicholas Scott
Minister of State,
Department of Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make transitional provision in connection with the statutory scheme (the “new scheme”) for the granting of rebates, rent rebates and rent allowances introduced by the Social Security Act 1986 (“the 1986 Act”) and the Housing Benefit (General) Regulations 1987. This scheme is to be administered by local, rating and housing authorities (“authorities”).

Applications for a rebate or an allowance under legislation repealed by the 1986 Act (“an old scheme”) may, and in some cases shall, be treated as claims under the new scheme (regulation 2). Under regulation 2(1) provision is also made for the determination of claims up to 13 weeks before the start of the new scheme. Regulation 3 relates to persons already receiving a rebate or an allowance under an old scheme; they will not generally be required initially to make a claim under the new scheme, though authorities may require them to do so.

Regulation 4 contains provisions for the calculation of benefit which take account of the introduction of income support in place of supplementary benefit. Regulation 5 enables authorities to extend the periods by reference to which benefit is paid where those periods either end on or after 1st March 1988 or would otherwise have expired because of the introduction of the new scheme.

During the period of 4 weeks before and 4 weeks after the introduction of the new scheme, benefit under that scheme may be paid together with a rebate or allowance under an old scheme (regulation 6). Where an authority makes any determination in advance of the introduction of the new scheme, the time for requiring a review of that determination will start to run only from the introduction of the new scheme (regulation 7).

Provision is made to continue the issue and cancellation of certificates conferring eligibility to housing benefit under an old scheme (regulation 8), to continue arrangements to pay benefit to third parties (regulation 9) and to continue any discretionary disregard in local schemes for war pensions (regulation 10).

Under old schemes authorities may recover overpayments of a rebate or an allowance by means of deduction from future rebates or allowances. Regulation 11 enables these overpayments to continue to be recovered by means of deduction from rebates or allowances under the new scheme.

Regulation 12 contains consequential provisions relating to supplementary benefit. It provides for the date at which entitlement to housing benefit supplement payable under the Supplementary Benefits Act 1976 will cease and for the determination of arrangements under which supplementary benefit is paid by local authorities to meet water charges.

These Regulations contain only provisions consequential on sections 20, 21, 22, 28, 29 and 51 of the Social Security Act 1986 and the Housing Benefit (General) Regulations 1987 and are made before the expiry of 12 months from the commencement of those provisions: they are accordingly exempt, by section 61(5) of the Social Security Act 1986, from reference to the Social Security Advisory Committee and have not been so referred.