

**1987 No. 1971**

**HOUSING, ENGLAND AND WALES  
HOUSING, SCOTLAND  
RATING AND VALUATION**

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

Made - - - - 20th November 1987

*Coming into force*

*for the purposes of all the regulations to  
the extent they relate to cases referred  
to in regulation 1(1)9a) and (2) 1st April 1988  
for all other purposes 4th April 1988*

*Note: Only those provisions which are immediately relevant to child support are reproduced, namely regs. 3, 1, 63, 69(2); and paras. 1, 1A, 2, 3, 5(2) and 5(2A) of Sch. 1.*

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PART I  
GENERAL

.....  
**Definition of non-dependant**

**3.—(1)** In these Regulations, “non dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a claimant ▶or with whom a claimant normally resides.◀

Words added to reg. 3(1) by reg. 4(2) of S.I. 1994/3061 as from 2.12.94

(2) this paragraph applies to—

- (a) any member of the claimant’s family;
- (b) if the claimant 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 claimant but who is not a member of his household by virtue of regulation 15 (membership of the same household);

Words added to reg. 3(2)(d) by reg. 3 of S.I. 1990/546 as from 2.4.90 where rent payable weekly or in weekly multiples, 1.4.90 otherwise.

(d) subject to paragraph (3), a person who jointly occupies the claimant’s dwelling ▶and is either a co-owner of that dwelling with the claimant or his partner (whether or not there are other co-owners) or is liable with the claimant or his partner to make payments in respect of his occupation of the dwelling◀;

Para. (2)(e) of reg. 3 substituted by reg. 3 of S.I. 1990/1775 as from 1.10.90.

▶(e) subject to paragraph (3)—

- (i) any person who is liable to make payments on a commercial basis to the claimant or the claimant’s partner in respect of the occupation of the dwelling.
- (ii) any person to whom or to whose partner the claimant or the claimant’s partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling, or
- (iii) any other members of the household of the person to whom or to whose partner the claimant or the claimant’s partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling;◀

Words substituted in reg. 3(2)(f) by reg. 3 of S.I. 1995/560 as from 3.4.95 where rent payable weekly or in weekly multiples, 1.4.95 otherwise. Para. (3) of reg. 3 substituted by reg. 2 of S.I. 1998/3257 as from 25.1.99.

(f) a person who lives with the claimant in order to care for him or a partner of his and who is engaged by a charitable or ▶voluntary organisation◀ which makes a charge to the claimant or his partner for the services provided by that person.

▶(3) Sub-paragraphs (d) and (e) of paragraph (2) shall not apply to any person who is treated as if he were not liable to make payments in respect of a dwelling under paragraph (1) of regulation 7 (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling).◀

Words added to reg. 3(4) by reg. 2(c) of S.I. 1989/416 as from 3.4.89 where rates payable with rent weekly or in weekly multiples, 1.4.89 otherwise.

(4) For the purposes of this regulation and regulation 7 (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area within the meaning prescribed in paragraph 7 of Schedule 1 ▶but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord.◀

PART III

PAYMENTS IN RESPECT OF A DWELLING

**Rent**

10.—(1) Subject to the following provisions of this regulation, the payments in respect of which housing benefit is payable in the form of a rent rebate or allowance are the following periodical payments which a person is liable to make in respect of the dwelling which he occupies as his home—

- (a) payment of, or by way of, rent;
- (b) payments in respect of a licence or permission to occupy the dwelling;
- (c) payments by way of mesne profits or, in Scotland, violent profits;
- (d) payments in respect of, or in consequence of, use and occupation of the dwelling;
- (e) payment of, or by way of, service charges payment of which is a condition on which the right to occupy the dwelling depends;
- (f) mooring charges payable for a houseboat;
- (g) where the home is a caravan or a mobile home, payments in respect of the site on which it stands;
- (h) any contributions payable by a person resident in an almshouse provided by a housing association which is either a charity of which particulars are entered in the register of charities established under section 4 of the Charities Act 1960(a) (register of charities) or an exempt charity within the meaning of that Act, which is a contribution towards the cost of maintaining that association’s almshouses and essential services in them;
- (i) payments under a rental purchase agreement, that is to say an agreement for the purchase of a dwelling ►which is a building or part of one◄ under which the whole or part of the purchase price is to be paid in more than one instalment and the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid; and
- (j) where, in Scotland, the dwelling is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1955(b), the payment in respect of the croft land.

Words inserted into reg. 10(1)(i) by reg. 5 of S.I. 1988/1971 as from 5.12.88.

(2) A rent rebate or, as the case may be, a rent allowance shall not be payable in respect of the following periodical payments:—

- (a) payments under a long tenancy except a shared ownership tenancy granted by a housing associated or a housing authority;
- (b) payments under a co-ownership scheme;
- (c) payments by an owner;
- (d) payments under a hire purchase, credit sale or conditional sale agreement except to the extent the conditional sale agreement is in respect of land; and
- (e) payments by a Crown tenant.

►(3) Subject to paragraphs (4), (5) and (6B), the amount of a person’s eligible rent shall be—

- (a) the maximum rent where a maximum rent has been, or falls to be, determined in accordance with regulation 11; or

Reg. 10(3) substituted (subject to transitional provision in reg. 3 of S.I. 2001/487) reg. 2(b) of S.I. 2001/487 as from 21.5.01.

(a) 1960 c. 58; subsections (8) and (10) of section 4 were amended by section 1(4) and (5) and Schedule 2

Parts I and II of the Education Act 1973 (c. 16).

(b) 1955 c. 21; section 3(1) was amended by section 14 of the Crofting Reform (Scotland) Act 1976 (c. 21).

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Words inserted in reg. 10(3)(b) & paras. (3A) to (3K) inserted by reg. 5(2) & (3) of S.I. 2003/2399. For coming into force dates see Sch. 1 of that S.I.

(b) except where sub-paragraph (a) ► or paragraph (3A), (3C) or 3D◄ applies, the aggregate of such payments specified in paragraph (1) as that person is liable to pay less—

- (i) except where he is separately liable for charges for water, sewerage or allied environmental services, an amount determined in accordance with paragraph (6);
- (ii) where payments include service charges which are wholly or partly ineligible, an amount in respect of the ineligible charges determined in accordance with Schedule 1; and
- (iii) where he is liable to make payments in respect of any service charge to which paragraph (1)(e) does not apply, but to which paragraph 2(1A)(a) of Schedule 1 (unreasonably low service charges) applies in the particular circumstances, an amount in respect of such charges determined in accordance with paragraph 2(1A) of Schedule 1. ◄

►(3A) Where, by virtue of paragraph (1) of regulation 11A, a maximum rent (standard local rate) has been, or falls to be, determined in accordance with that regulation, then, except where paragraph (3C)(a)(ii), (b)(ii) or (c)(ii), (3D)(a) or (3F)(a) applies -

- (a) the amount of a person's eligible rent shall be the maximum rent (standard local rate); and
- (b) it shall apply until the earlier of -
  - (i) the determination of a maximum rent (standard local rate) by virtue of regulation 11A(1)(b)(iv); or
  - (ii) the determination of a maximum rent (standard local rate) which relates to the local housing allowance applicable to the case on the first anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the eligible rent in sub-paragraph (a), was identified.

(3B) This paragraph applies where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 11A(1)(a) or (b)(i), (ii) or (iii) and the claimant has been continuously entitled to and in receipt of housing benefit in respect of the dwelling he occupies as his home for a period which includes the commencement date.

(3C) Where paragraph (3B) applies, subject to paragraph (3I) -

- (a) except where sub-paragraph (b) or (c) applies, the amount of a person's eligible rent shall be -
  - (i) the eligible rent determined in accordance with paragraph (3A) where that is not less than the eligible rent which applied on the day before the relevant date; or
  - (ii) the eligible rent which applied on the day before the relevant date;
- (b) where the eligible rent to which the person was entitled on the day before the relevant date was determined by reference to a maximum rent determined in accordance with regulation 11(7)(b), the person's eligible rent shall be -
  - (i) the eligible rent determined in accordance with paragraph (3A), where that is not less than the eligible rent which applied on the day before the relevant date; or
  - (ii) the eligible rent which applied on the day before the relevant date; or
- (c) where the eligible rent to which the person was entitled on the day before the relevant date was, by virtue of regulation 11(9), determined in accordance with paragraph (3)(b), the person's eligible rent shall be -
  - (i) the eligible rent determined in accordance with paragraph (3A), where that is not less than the eligible rent which applied on the day before the relevant date; or
  - (ii) the eligible rent which applied on the day before the relevant date.

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(a) Paragraph 2(1A) was inserted by S.I. 1991/235 and amended by S.I. 1993/317.

(3D) Subject to paragraph (3I), where the pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 11A(1)(b)(i), (ii) or (iv) and the claimant occupies a dwelling which is the same as that occupied by him at the date of death of any person to whom any of sub-paragraphs (b) to (d) of paragraph (3H) applied or, had a claim been made, would have applied, the eligible rent shall be -

- (a) either -
  - (i) the eligible rent which applied on the day before the death occurred; or
  - (ii) in a case where there was no eligible rent, subject to paragraphs (4) and (6B), the reckonable rent due on that day; or
- (b) the eligible rent determined in accordance with paragraph (3A), where it is not less than the eligible rent determined in accordance with sub-paragraph (a).

(3E) For the purpose of paragraph (3D), a claimant shall be treated as occupying the dwelling if paragraph (8) of regulation 5 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) is satisfied and for that purpose that paragraph (8) shall have effect as if sub-paragraph (b) of that paragraph were omitted.

(3F) Subject to paragraphs (3G) and (3I), where a pathfinder authority is required to determine a maximum rent (standard local rate) by virtue of regulation 11A(1)(b)(i) or (ii) and the pathfinder authority is satisfied that a person to whom paragraph (3H) applies was able to meet the financial commitments for his dwelling when they were entered into, the eligible rent shall be -

- (a) an eligible rent determined in accordance with paragraph (3)(b); or
- (b) the eligible rent determined in accordance with paragraph (3A), where it is not less than the eligible rent referred to in sub-paragraph (a).

(3G) Paragraph (3F) shall not apply in the case of any claim for housing benefit where the claimant was previously entitled to housing benefit in respect of any period which ended less than 52 weeks before the commencement of the period to which the claim relates.

(3H) This paragraph applies to the following persons -

- (a) the claimant;
- (b) any member of his family;
- (c) if the claimant is a member of a polygamous marriage, any partners of his and any child or young person for whom he or a partner is responsible and who is a member of the same household;
- (d) any relative of the claimant or his partner who occupies the same dwelling as the claimant, whether or not they reside with him, except for a relative who has a separate right of occupation of the dwelling which would enable them to continue to occupy it even if the claimant ceased his occupation of it.

(3I) Where a person's eligible rent has been determined in accordance with -

- (a) paragraph (3C)(a)(ii), it shall continue to apply until such time as the pathfinder authority determines an eligible rent -
  - (i) in accordance with paragraph (3A) which is equal to or exceeds it; or
  - (ii) where the maximum rent (standard local rate) on which it is based relates to the local housing allowance applicable to the case on the anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the eligible rent in paragraph (3C)(a)(i) was identified, which is equal to or exceeds it,

whichever first occurs;

- (b) paragraph (3C)(b)(ii), and-
  - (i) the pathfinder authority determined a maximum rent (standard local rate) following receipt of a notification of change relating to a rent allowance that falls within paragraph 2(3)(a) of Schedule 1A as a result of the death of one of the occupiers to whom any of sub-paragraphs (b) to (d) of regulation 11(7) applied, it shall continue to apply until -

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- (aa) the period of 12 months from the date of death has expired; or
- (bb) the pathfinder authority determines an eligible rent in accordance with paragraph (3A) which is equal to or exceeds it, whichever first occurs; or
- (ii) in any other case, it shall continue to apply until -
  - (aa) the date on which the eligible rent which applied on the day before the relevant date would have ceased to apply; or
  - (bb) the pathfinder authority determines an eligible rent in accordance with paragraph (3A) which is equal to or exceeds it, whichever first occurs;
- (c) paragraph (3C)(c)(ii), it shall continue to apply until -
  - (i) the date on which the eligible rent which applied on the day before the relevant date would have ceased to apply; or
  - (ii) the pathfinder authority determines an eligible rent in accordance with paragraph (3A) which is equal to or exceeds it, whichever first occurs;
- (d) paragraph (3D)(a), it shall continue to apply until -
  - (i) the period of 12 months from the date of death has expired; or
  - (ii) the pathfinder authority determines an eligible rent in accordance with paragraph (3A) which is equal to or exceeds it, whichever first occurs;
- (e) paragraph (3F)(a), it shall continue to apply until -
  - (i) the first 13 weeks of the claimant's award of housing benefit have expired; or
  - (ii) the pathfinder authority determines an eligible rent in accordance with paragraph (3A) which is equal to or exceeds it, whichever first occurs; and
- (f) paragraph (3A)(b)(ii), or sub-paragraph (a)(ii) or this sub-paragraph, that eligible rent ("the earlier eligible rent") shall continue to apply until -
  - (i) the determination of a maximum rent (standard local rate) by virtue of regulation 11A(1)(b)(iv); or
  - (ii) the determination of an eligible rent where the maximum rent (standard local rate) on which it is based relates to the local housing allowance applicable to the case on the first anniversary of the day by reference to which the local housing allowance which was applicable for the purpose of determining the earlier eligible rent was identified, whichever first occurs.

(3J) Where an eligible rent ceases to apply by virtue of sub-paragraph (b)(i)(aa), (b)(ii)(aa), (c)(i), (d)(i) or (e)(i) of paragraph (3I), the eligible rent that shall apply instead shall be the one which would have applied but for paragraphs (3C)(b)(ii), (3C)(c)(ii), (3D)(a) and (3F)(a).

(3K) In paragraph (3D) "reckonable rent" has the same meaning as in regulation 11.◀

(4) Where the payments specified in paragraph (1) are payable in respect of accommodation which consists partly of residential accommodation and partly of other accommodation, only such proportion thereof as is referable to the residential accommodation shall count as eligible rent for the purposes of these Regulations.

(5) Where more than one person is liable to make payments in respect of a dwelling, the payments specified in paragraph (1) shall be apportioned for the purpose of calculating the eligible rent for each such person having regard to all the circumstances, in particular, the number of such persons and the proportion of rent paid by each such person.

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- (6) The amount of the deduction referred to in paragraph (3) shall be—
- (a) except in a case to which sub-paragraph (c) applies, if the dwelling occupied by the claimant is a self-contained unit, the amount of the charges;
  - (b) in any other case except one to which sub-paragraph (c) applies, the proportion of those charges in respect of the self-contained unit which is obtained by dividing the areas of the dwelling occupied by the claimant by the area of the self-contained unit of which it forms part;
  - (c) where the charges vary in accordance with the amount of water actually used, the amount which the appropriate authority considers to be fairly attributable to water, and sewerage services, having regard to the actual or estimated consumption of the claimant.◀

Reg. 10(6) substituted by Part II of Sch. 2 to S.I. 1990/546 (abolition of domestic rates), as from 2.4.90 where rent payable weekly or in weekly multiples, 1.4.90 otherwise.



►(6B) In any case where it appears to the authority that in the particular circumstances of that case the eligible rent as determined in accordance with the preceding paragraphs of this regulation is greater than it is reasonable to meet by way of housing benefit, the eligible rent shall be such lesser sum as seems to that authority to be an appropriate rent in that particular case.◀

Paras. (6A), (6AA) & (6AB) of reg. 10 deleted by reg. 2(b) of S.I. 2001/487 as from 21.5.01.

Para. (6B) inserted in reg. 10 by reg. 4(3) of S.I. 1995/1644 as from 2.1.96, subj. to saving in reg. 10 *ibid*.

(7) In this regulation and ►Schedules 1 (ineligible service charges) or 1B (service charges for claimants in supported accomodation)◀—

Words substituted in reg. 10(7) by reg. 4 of S.I. 1999/2734 as from 1.4.2000 or 3.4.2000, where rent is payable at intervals of a whole number of weeks.

“service charges” means periodical payments for services, whether or not under the same agreement as that under which the dwelling is occupied, or whether or not such a charge is specified as separate from or separately identified within other payments made by the occupier in respect of the dwelling; and

“services” means services performed or facilities (including the use of furniture) provided for, or rights made available to, the occupier of a dwelling.

*In the circumstances set out in reg. 10 of S.I. 1995/1644, the provision of reg. 10 of these Regulations (S.I. 1987/1971) are saved as they stood at 1.1.96, ie as follows:—*

**Rent**

**10.**—(1) Subject to the following provisions of this regulation, the payments in respect of which housing benefit is payable in the form of a rent rebate or allowance are the following periodical payments which a person is liable to make in respect of the dwelling which he occupied as his home—

- (a) payments of, or by way of, rent;
- (b) payments in respect of a licence or permission to occupy the dwelling;
- (c) payments by way of mesne profits or, in Scotland, violent profits;
- (d) payments in respect of, or in consequence of, use and occupation of the dwelling;
- (e) payments of, or by way of, service charges payment of which is a condition on which the right to occupy the dwelling depends;
- (f) mooring charges payable for a houseboat;
- (g) where the home is a caravan or a mobile home, payments in respect of the site on which it stands;
- (h) any contribution payable by a person resident in an almshouse provided by a housing association which is either a charity of which particulars are entered in the register of charities established under section 4 of the Charities Act 1960 (register of charities) or an exempt charity within the meaning of that Act, which is a contribution towards the cost of maintaining that association's almshouses and essential services in them;
- (i) payments under a rental purchase agreement, that is to say an agreement for the purchase of a dwelling

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Words inserted into reg. 10(1)(i) by reg. 5 of S.I.1988/1971 as from 5.12.88.

►which is a building or part of one◄ under which the whole or part of the purchase price is to be paid in more than one instalment and the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid; and

- (j) where, in Scotland, the dwelling is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1955, the payment in respect of the croft land.

(2) A rent rebate, or as the case may be, a rent allowance shall not be payable in respect of the following periodical payments:-

- (a) payments under a long tenancy except a shared ownership tenancy granted by a housing association or a housing authority;
- (b) payments under a co-ownership scheme;
- (c) payments by an owner;
- (d) payments under a hire purchase, credit sale or conditional sale agreement except to the extent the conditional sale agreement is in respect of land; and
- (e) payments by a Crown tenant

(3) Subject to any apportionment in accordance with paragraphs (4) and (5) and to regulations 11 and 12 (restrictions on unreasonable payments and rent increases), the amount of a person's eligible rent shall be the aggregate of such payments specified in paragraph (1) as he is liable to pay less-

- (a) except where he is separately liable for ►◄ charges for water, sewerage or allied environmental services, an amount determined in accordance with paragraph (6); and
- (b) where payments include service charges which are wholly or partly ineligible, an amount in respect of the ineligible charges determined in accordance with Schedule 1 ►and
- (c) where he is liable to make payments in respect of any service charges to which paragraph 1(e) does not apply, but to which paragraph 2(1A) of Schedule 1 (unreasonably low service charges) applies in the particular circumstances, an amount in respect of such charges determined in accordance with paragraph 2(1A) of Schedule 1.◄

(4) Where the payments specified in paragraph (1) are payable in respect of accommodation which consists partly of residential accommodation and partly of other accommodation, only such proportion thereof as is referable to the residential accommodation shall count as eligible rent for the purposes of these Regulations.

(5) Where more than one person is liable to make payments in respect of a dwelling, the payments specified in paragraph (1) shall be apportioned for the purposes of calculating the eligible rent for each such person having regard to all the circumstances, in particular, the number of such persons and the proportion of rent paid by each such person.

►(6) The amount of the deduction referred to in paragraph (3) shall be-

- (a) except in a case to which sub-paragraph (c) applies, if the dwelling occupied by the claimant is a self-contained unit, the amount of the charges;
- (b) in any other case except one to which sub-paragraph (c) applies, the proportion of those charges in respect of the self-contained unit which is obtained by dividing the area of the dwelling occupied by the claimant by the area of the self-contained unit of which it forms part;
- (c) where the charges vary in accordance with the amount of water actually used, the amount which the appropriate authority considers to be fairly attributable to water, and sewerage services, having regard to the actual or estimated consumption of the claimant.◄

Words deleted in reg. 10(3)(a) by Part I of Sch. 2 to S.I. 1990/546 (abolition of domestic rates), as from April 1990.

Word "and" and sub-para. (c) added to reg. 10(3) by reg. 4 of S.I. 1993/317 as from April 1993.

Reg. 10(6) substituted by Part II of Sch. 2 to S.I. 1990/546 (abolition of domestic rates), as from April 1990.

- (7) In this regulation and Schedule 1—  
 “service charges” means periodical payments for services, whether or not under the same agreement as that under which the dwelling is occupied, or whether or not such a charge is specified as separate from or separately identified within other payments made by the occupier in respect of the dwelling; and  
 “services” means services performed or facilities (including the use of furniture) provided for, or rights made available to, the occupier of a dwelling.

PART VIII

AMOUNT OF BENEFIT

Non-dependant deductions

63.—(1) Subject to the following provisions of this regulation, the deductions referred to in regulation 61 (maximum housing benefit) shall be—

- (a) in respect of a non-dependant aged 18 or over in remunerative work, ▶£47.75◀ per week;
- (b) in respect of a non-dependant aged 18 or over to whom sub-paragraph (a) does not apply, ▶£7.40◀ per week.◀

(2) In the case of a non-dependant aged 18 or over to whom paragraph (1)(a) applies because he is in remunerative work ▶◀, where it is shown to the appropriate authority that his normal weekly gross income ▶is—

- (a) less than ▶£101.00◀, the deduction to be made under this regulation shall be that specified in paragraph 1(b);
- (b) not less than ▶£101.00◀ but less than ▶£150.00◀, the deduction to be made under this regulation shall be ▶£17.00◀;
- (c) not less than ▶£150.00◀ but less than ▶£194.00◀, the deduction to be made under this regulation shall be ▶£23.35◀.◀
- ▶(d) not less than ▶£194.00◀ but less than ▶£258.00◀, the deduction to be made under this regulation shall be ▶£38.20◀;
- (e) not less than ▶£258.00◀ but less than ▶£322.00◀, the deduction to be made under this regulation shall be ▶£43.50◀.◀

Reg. 63(1) amended by reg. 10(a) of S.I. 1990/546, and by Part II of Sch. 2 *ibid.* abolition of domestic rates), as from 2.4.90 where rent payable weekly or in multiples, 1.4.90 otherwise.

(a) In reg. 63(1) & (2) amounts £47.75, £7.40, £17.00, £23.35, £38.20 & £43.50 remain unchanged & £97.00, £144.00, £186.00, £247.00 & £308 substituted for £101.00, £150.00, £194.00, £258.00 & £322.00 by art. 19(5) of S.I. 2005/522 as from 1.4.05.

Words deleted in reg. 63(2) by reg. 10(b) of S.I. 1990/546 as from 2.4.90 where rent payable weekly or in weekly multiples, 1.4.90 otherwise.

Words and sub-paras. (a) - (c) substituted for words in reg. 63(2) by reg. 2(b) of S.I. 1992/50 as from 6.4.92 where rent payable weekly or in weekly multiples, 1.4.92 otherwise. See note (a) above.

Paras. (d) and (e) inserted in reg. 63(2) by reg. 3(b) of S.I. 1996/2518 as from 1.4.97 where rent is payable weekly or in weekly multiples, 7.4.97 in other cases. See note (a) above.



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(3) Only one deduction shall be made under this regulation in respect of a married or unmarried couple or, as the case may be, members of a polygamous marriage and, ►where, but for this paragraph, the amount that would fall to be deducted in respect of one member of a couple or polygamous marriage is higher than the amount (if any) that would fall to be deducted in respect of the other, or any other, member, the higher amount shall be deducted.◄

Words substituted in reg. 63(3) by reg. 10 of S.I. 1993/317 as from 5.4.93 where rent payable weekly or in weekly multiples, 1.4.93 otherwise.

(4) In applying the provisions of paragraph (2) in the case of a married or unmarried couple or, as the case may be, a polygamous marriage, regard shall be had, for the purpose of paragraph (2) to the couple's or, as the case may be, all members of the polygamous marriage's joint weekly gross income.

(5) Where a person is a non-dependant in respect of more than one joint occupier of a dwelling (except where the joint occupiers are a married or unmarried couple or members of a polygamous marriage), the deduction in respect of that non-dependant shall be apportioned between the joint occupiers (the amount so apportioned being rounded to the nearest penny) having regard to the number of joint occupiers and the proportion of the payments in respect of the dwelling payable by each of them.

(6) No deduction shall be made in respect of any non-dependants occupying a claimant's dwelling if the claimant or his partner is—

- (a) blind or treated as blind by virtue of paragraph 12 of Schedule 2 (additional condition of the higher pensioner and disability premiums); or
- (b) receiving in respect of himself either—
  - (i) attendance allowance; or
  - (ii) the care component of the disability living allowance.◄

Reg. 63(6)(b) substituted by reg. 2(c) of S.I. 1992/50 as from 6.4.92 where rent payable weekly or in weekly multiples, 1.4.92 otherwise.

(7) No deduction shall be made in respect of a non-dependant if—

- (a) although he resides with the claimant, it appears to the appropriate authority that his normal home is elsewhere; or
- (b) he is in receipt of a training allowance paid in connection with a Youth Training Scheme established under section 2 of the Employment and Training Act 1973(a) ►or section 2 of the Enterprise and New Towns (Scotland) Act 1990◄(b) ►◄; or
- (c) he is a full-time student during a period of study within the meaning of Part VII (Students)►◄►or
- (d) he is a full time student and during a recognised summer vacation appropriate to his course he is not in ►remunerative work; or◄◄

Words inserted into reg. 63(7)(b) by art. 2 of, and Sch. to, S.I. 1991/387 as from 1.4.91.

Words deleted in reg. 63(7)(b) by reg. 10(d) of S.I. 1990/546 as from 2.4.90 where rent payable weekly or in weekly multiples, 1.4.90 otherwise.

Words deleted in reg. 63(7)(c) by reg. 10(d) of S.I. 1990/546, as from 2.4.90 where rent payable weekly or in weekly multiples, 1.4.90 otherwise.

Word and sub-para. (d) added to reg. 63(7) by reg. 7 of S.I. 1990/1775 as from 1.10.90.

Words situated in reg. 63(7)(d) by reg. 2(d)(i) of S.I. 1992/50 as from 6.4.92 where rent payable weekly or in weekly multiples, 1.4.92 otherwise.

(a) 1973 c. 50, Section 2 was amended by the Employment and Training Act 1981 (c.57) sections 9 and 11,

Schedule 2, Part II, paragraph 9 and Schedule 3.

(b) 1990 c. 35.

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Reg. 63(7)(e) added by reg. 2(d)(ii) of S.I. 1992/50 as from 6.4.92 where rent payable weekly or in weekly multiples, 1.4.92 otherwise.

Words inserted in reg. 63(7)(e)(iii) by reg. 8(2)(b)(ii) of S.I. 1998/563 as from 6.4.98 where rent is payable in weekly multiples, 1.4.98 otherwise.

Words deleted in reg. 63(8) by reg. 10(e) of S.I. 1990/546, as from 2.4.90 where rent payable weekly or in weekly multiples, 1.4.90 otherwise.

Words in reg. 63(8) deleted by reg. 9 of S.I. 1991/235 as from 1.4.91.

Words inserted into reg. 63(8) by reg. 10 of S.I. 1996/1510 as from 7.10.96.

Reg. 63(9) added by reg. 2(e) of S.I. 1992/50 as from 6.4.92 where rent payable weekly or in weekly multiples, 1.4.92 otherwise.

Sub-paras. (a) to (c) substituted for words in reg. 63(9) by reg. 9 of S.I. 1992/2148 as from 5.10.92.

Words inserted into reg. 63(9)(b) by reg. 3(3)(d) of S.I. 1993/1249 as from 14.5.93.

Words substituted in reg. 63(9)(b) by reg. 4(3) and (4) of S.I. 1993/963 as from 22.4.93.

- ▶(e) he is not residing with the claimant because he has been a patient for a period in excess of six weeks, or a prisoner, and for these purposes—
  - (i) “patient” has the meaning given in paragraph (2) of regulation 18 (patients);
  - (ii) the period of six weeks shall be calculated by reference to paragraph (3) of that regulation as if that paragraph applied in his case, and
  - (iii) “prisoner” means a person who is detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court other than a person ▶who is detained in hospital under the provisions of the Mental Health Act 1983 (a), or, in Scotland, under the provisions of the Mental Health (Scotland) Act 1984 (b) or the Criminal Procedure (Scotland) Act 1995 (c).◀◀

(8)▶◀No deduction shall be made in calculating the amount of a rent rebate or allowance in respect of a ▶◀ non-dependant aged less than 25 who is on income support ▶or an income-based jobseeker’s allowance◀.

▶(9) In the case of a non-dependant to whom paragraph (2) applies because he is in remunerative work, there shall be disregarded from his weekly gross income—

- ▶(a) any attendance allowance or disability living allowance received by him;
- (b) any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund ▶, the Eileen Trust◀ or ▶the Independent Living Funds◀ which had his income fallen to be calculated under regulation 33 (calculation of income other than earnings)(d) would have been disregarded under paragraph 21 of Schedule 4 (income in kind); and
- (c) any payment which had his income fallen to be calculated under regulation 33 would have been disregarded under paragraph 34 of Schedule 4 (payments made under certain trusts and certain other payments)(e).◀◀

PART IX

CALCULATION OF WEEKLY AMOUNTS AND CHANGES OF CIRCUMSTANCES

Calculation of weekly amounts

69.—(2) The weekly amount of a claimant’s eligible rent shall be—

- (a) subject to paragraph (4), where rent is payable at intervals of one week or a multiple thereof, the amount of eligible rent payable week or, where it is payable at intervals of multiple of a weekly, the amount determined by dividing the amount of eligible rent payable by the number equal to the number of weeks in respect of which it is payable; or
- (b) subject to paragraph (5), where rent is payable at intervals of one month or any other interval which is not a week or a multiple thereof, the amount determined by dividing an amount of that eligible rent by the number equal to the number of days in the period in respect of which it is payable and multiplying the quotient so obtained (referred to in paragraph (5) as the “daily rent”) by 7;

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(a) 1983 c.72.  
 (b) 1984 c.36.  
 (c) 1995 c.46.  
 (d) The relevant amending instrument is S.I. 1990/1549.  
 (e) Paragraph 34 was substituted by S.I. 1991/1775 and amended by S.I. 1992.1101.

## SCHEDULE 1

Regulation 10

## INELIGIBLE SERVICE CHARGES

## PART 1

## SERVICE CHARGES OTHER THAN FOR FUEL

**Ineligible service charges**

1. The following service charges shall not be eligible to be met by housing benefit—

- (a) charges in respect of day-to-day living expenses including in particular, all provision of—
- (i) ►subject to paragraph 1A◄ meals (including the preparation of meals or provisions of unprepared food);
- (ii) laundry (other than the provisions of premises or equipment to enable a person to do his own laundry);
- (iii) leisure items such as either sports facilities (except a children's play area), or television rental and licence fees ►(except radio relay charges, charges made in respect of the conveyance and the installation and maintenance of equipment for such conveyance of a television broadcasting service which is not a domestic satellite service, or charges made in respect of the conveyance and the installation and maintenance of equipment for such conveyance of a television programme service where in respect of the claimant's dwelling the installation of such equipment is the only practicable means of conveying satisfactorily a television broadcasting service which is not a domestic satellite service, as these services are defined in the Broadcasting Act 1990(a)◄;
- (iv) cleaning of rooms and windows ►except cleaning of—
- (aa) communal areas; or
- (bb) the exterior of any windows where neither the claimant nor any member of his household is able to clean them himself,
- where a payment is not made in respect of such cleaning by a local authority (including, in relation to England, a county council) or the National Assembly for Wales to the claimant or his partner, or to another person on their behalf;◄◄
- (v) transport;
- (b) charges in respect of—
- (i) the acquisition of furniture or household equipment, and
- (ii) the use of such furniture or equipment where that furniture or household equipment will become the property of the claimant by virtue of an agreement with the landlord;
- (c) charges in respect of the provisions of an emergency alarm system, ►◄
- (d) charges in respect of medical expenses (including the cost of treatment or counselling related to mental disorder, mental handicap, physical disablement or past or present alcohol or drug dependence);
- (e) charges in respect of the provision of nursing care or personal care (including assistance at meal-times or with personal appearance or hygiene);
- (f) charges in respect of general counselling or of any other support services, whoever provides those services, ►◄
- (g) charges in respect of any services not specified in sub-paragraphs (a) to (f) which are not connected with the provision of adequate accommodation.

Words inserted in para. 1(a)(i) by reg. 7(a) of S.I. 1988/1444 as from 3.4.89. where rates payable with rent weekly or in weekly multiples., 1.4.89. otherwise.

Words substituted in para. 1(a)(iii) by reg. 14 of S.I. 1991/1599 as from 5.8.91.

(a) Words inserted in Sch. 1, para. 1(a)(iv) & omitted in para. 1(c) & (f) by reg. 3(2) of S.I. 2003/363 as from 1.4.03.

Words in para. 1(a)(iv) substituted by reg. 4(3)(a) of S.I. 2003/2279 as from 1.10.03.

See note (a) above.

Para. 1(f) substituted by reg. 2 of S.I. 1994/1003 as from 1.5.94. See note (a) above.

(a) 1990 c. 42, "television programme service" and "television broadcasting service" are respectively defined in sections 2(4) and 2(5) of the Broadcasting Act 1990 and "domestic satellite service" is defined in section 43(1) of that Act.

**Sch. 1**

Para. 1A added by reg. 7(b) of S.I. 1988/1444 as from 3.4.89 where rates payable with rent weekly or in weekly multiples, 1.4.89 otherwise.

Words inserted in para. 1A(2) by reg. 14(2) of S.I. 1997/65 as from 1.4.97 where rent is payable weekly or in weekly multiples, 7.4.97 in other cases.  
(a) Amounts £20.05, £10.15, £13.35 & £6.70 in para. 1A substituted for £19.85, £10.05, £13.20 & £6.65 by art. 19(6) of S.I. 2005/522 as from 1.4.05.

Words inserted in para. 1A(3) by reg. 14(3) of S.I. 1997/65 as from 1.4.97. where rent is payable weekly or in weekly multiples, 7.4.97. in other cases.

See note (a) above.  
Sub-para. (3A) added to reg. 1A by reg. 14(4) of S.I. 1997/65 as from 1.4.97.

Amount £2.45 substituted for £2.40 by art. 19(6) of S.I. 2004/552 as from 1.4.04.  
Sub-paras. (5) and (6) added to para. 1A by reg. 6 of S.I. 1989/416 as from 3.4.89 where rates payable with rent weekly or in weekly multiples, 1.4.89 otherwise.

Words inserted in para. 2(1) by reg. 7(c) of S.I. 1988/1444 as from 3.4.89

Sub-para. (1A) inserted into para. 2 by reg. 12 of S.I. 1991/235 as from 1.4.91.

Words substituted in paras. 2(1A) & (3) by reg. 3(2) of S.I. 2001/1605 as from 2.7.01.  
Words substituted in para. 2(1A) by reg. 11(a) of S.I. 1993/317 as from 5.4.93 where rent payable weekly or in weekly multiples, 1.4.93 otherwise.

**►Amount ineligible for meals**

**1A.—(1)** Where a charge for meals is ineligible to be met by housing benefit under paragraph 1, the amount ineligible in respect of each week shall be the amount specified in the following provisions of this paragraph.

(2) ►Subject to sub-paragraph (3A) ◀where the charge includes provision for at least three meals a day, the amount shall be—

- (a) for a single claimant, ►£20.05◀;
- (b) if the claimant is a member of a family—
  - (i) for the claimant and for each member of his family aged 16 or over, ►£20.05◀;
  - (ii) for each member of his family under age 16, ►£10.15◀.

(3) Except where sub-paragraph (4) applies ►and subject to sub-paragraph (3A)◀, where the charge includes provision for less than three meals a day, the amount shall be—

- (a) for a single claimant, ►£13.35◀;
- (b) if the claimant is a member of a family—
  - (i) for the claimant and for each member of his family aged 16 or over, ►£13.35◀;
  - (ii) for each member of his family under age 16 ►£6.70◀

► (3A) For the purposes of sub-paragraphs (2)(b) and (3)(b), a person attains the age of 16 on the first Monday in September following his 16th birthday. ◀

(4) Where the charge for meals includes the provision of breakfast only, the amount for the claimant and, if he is a member of a family, for the claimant and for each member of his family, shall be ►£2.45◀.

►(5) Where a charge for meals includes provision for meals for a person who is not a member of the claimant's family sub-paragraphs (2) to (4) shall apply as if that person were a member of the claimant's family.

(6) For the avoidance of doubt where the charge does not include provision for meals for a claimant or, as the case may be, a member of his family, sub-paragraphs (2) to (4) shall not apply in respect of that person. ◀

**Amount of ineligible charges**

**2.—(1)** ►Subject to paragraph 1A,◀ where an ineligible service charge is not separated from or separately identified within other payments made by the occupier in respect of the dwelling, the appropriate authority shall apportion such charges as is fairly attributable to the provision of that service, having regard to the cost of comparable services and such portion of those payments shall be ineligible to be met by housing benefit.

►(1A) Subject to paragraph 1A, where the ►relevant authority◀ considers that the amount of ►any ineligible service charge◀ which is separately identified within other payments made by the occupier in respect of the dwelling is unreasonably low having regard to the service provided, it shall substitute a sum for the charge in question which it considers represents the value of the services concerned and the amount so substituted shall be ineligible to be met by housing benefit.◀

►(1B) In sub-paragraph (1A) the expression “ineligible service charge” includes any service charge which does not qualify as a periodical payment under regulation 10(1)(e) (rent).◄

Sub-para. (1B) inserted in para. 2 by reg. 11(b) of S.I. 1993/317 as from 5.4.93 where rent payable weekly or in weekly multiples, 1.4.93. otherwise.

(2) In any other case, the whole amount of the ineligible service charge shall be ineligible to be met by housing benefit.

**Excessive service costs**

3. ►Subject to paragraph 1A,◄ where the ►relevant authority◄ considers that the amount of a service charge to which regulation 10(1)(e) (rent) applies is excessive in relation to the service provided for the claimant or his family, having regard to the cost of comparable services it shall make a deduction from that charge of the excess and the amount so deducted shall be ineligible to be met by housing benefit.

Words inserted in para. 3 by reg. 7(c) of S.I. 1988/1444 as from 3.4.89 where rates payable with rent weekly or in weekly multiples, 1.4.89. otherwise.

**PART II**

**PAYMENTS IN RESPECT OF FUEL CHARGES**

Words substituted in paras. 2(1A) & (3) by reg. 3(2) of S.I. 2001/1605 as from 2.7.01.

5.—(2) In any other case, subject to ►sub-paragraphs (2A) and (3)◄ and paragraph 6, the amount ineligible to be met by housing benefit shall be the following amounts in respect of each week—

Words substituted in para. 5(2) by reg. 7(d)(i) of S.I. 1988/1444 as from 3.4.89 where rates payable within rent weekly or in weekly multiples, 1.4.89 otherwise.

- (a) for heating (other than hot water) ►£10.55◄;
- (b) for hot water ►£1.25◄;
- (c) for lighting ►£0.85◄
- (d) for cooking ►£1.25◄.

Amounts £10.55, £1.25 & £0.85 substituted for £9.80, £1.20 & £0.80 by art. 19(7) of S.I. 2005/522 as from 1.4.05.

►(2A) Where the accommodation occupied by the claimant or, if he is a member of a family, by the claimant and the members of his family, consists of one room only, the amount ineligible to be met by housing benefit in respect of each week where heating only is, or heating and either hot water or lighting (or both) are, provided, shall be one-half of the aggregate of the amounts specified in sub-paragraph (2)(a), (b) and (c).◄

Amount in para. 5(2)(d) substituted by art. 21(8) of S.I. 1996/599 as from 1.4.96.

Sub-para. (2A) inserted into para. 5 by reg. 7(d)(ii) of S.I. 1988/1444 as from 3.4.89 where rates payable with rent weekly or in weekly multiples, 1.4.89 otherwise.

