STATUTORY INSTRUMENTS

1990 No. 1773

SOCIAL SECURITY

The Community Charge Benefits (General) Amendment (No. 3) Regulations 1990

Made - - - -	*28th August 1990*
Laid before Parliament	*6th September 1990*
Coming into force	*1st October 1990*

The Secretary of State for Social Security in exercise of powers conferred by sections 20(1)(d), 22(1), (8), (9)(a) and (b), 22A(1), 31C(3), 51A(1)(a), and (kk) and section 84(1) of the Social Security Act 1986**(a)** and sections 165A(1) and 166(1) to (3A) of the Social Security Act 1975**(b)** and of all other powers enabling him in that behalf, after consultation with organisations appearing to him to be representative of authorities concerned **(c)** and after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it **(d)**, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Community Charge Benefits (General) Amendment (No. 3) Regulations 1990 and shall come into force on 1st October 1990.

(2) In these Regulations "the principal Regulations" means the Community Charge Benefits (General) Regulations 1989**(e)**.

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 of the principal Regulations (interpretation) –

(a) after the definition of "earnings" there shall be inserted the following definition –

""eligible rent" shall be construed in accordance with regulation 10 of the Housing Benefit (General) Regulations 1987 (rent)**(f)**;";

(b) after the definition of "unmarried couple" there shall be inserted the following definition –

""water charges" means –

(a) as respects England and Wales, any water and sewerage charges under Chapter IV of Part II of the Water Act 1989**(g)**,

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(a) 1986 c.50; sections 20(1)(d), 22A, 31C and 51A were inserted in the Social Security Act 1986 by Schedule 10 to the Local Government Finance Act 1988 (c.41); paragraph (kk) was inserted in section 51A(1) by the Social Security Act 1989 (c.24), Schedule 8, paragraph 9; and section 84(1) is cited because of the meaning assigned to the words "prescribed" and "regulations". **(b)** 1975 c.14; section 165A(1) was substituted by the Social Security Act 1986, Schedule 10, paragraph 87 and amended by the Social Security Act 1989 (c.24), Schedule 8, paragraph 9; the section was extended to income related benefits by the 1986 Act, Schedule 10, paragraph 48; section 166(3) was amended by the Social Security Act 1989, Schedule 8, paragraph 10, subsection (3A) was inserted by the Social Security Act 1986, section 62(1) and the section is applied by section 83(1) of the 1986 Act. **(c)** *See* section 61(7) of the Social Security Act 1986; section 61(7) was amended by the Local Government Finance Act 1988 (c.41), Schedule 10, paragraph 10. **(d)** *See* the Social Security Act 1986, Section 61(1)(b) and (10). The Social Security Act 1989 (c.24), Schedule 8, added a definition of "regulations" to Section 61(10) of the Act of 1986. **(e)** S.I. 1989/1321; relevant amending instruments are S.I. 1990/834 and 835. **(f)** S.I. 1987/1971; relevant amending instruments are S.I. 1988/1971 and 1990/546. **(g)** 1989 c.15.

(b) as respects Scotland, any water and sewerage charges under Schedule 5 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a),

in so far as such charges are in respect of the dwelling which a person occupies as his home;".

Amendment of regulation 25 of the principal Regulations

3. In regulation 25(3)(a) of the principal Regulations (notional income) for the words "or collective community charge contribution" there shall be substituted the words ", collective community charge contribution or water charges".

Amendment of regulation 33 of the principal Regulations

4. In regulation 33 of the principal Regulations (notional capital) –

(a) in paragraph (1) at the end there shall be added the following words –

"except to the extent that that capital is reduced in accordance with regulation 33A (diminishing notional capital rule).";

(b) in paragraph (3)(a) –

(i) for the words "household fuel," there shall be substituted the words "household fuel or";

(ii) for the words "or collective community charge contribution" there shall be substituted the words ", collective community charge contribution or water charges".

Insertion of regulation 33A into the principal Regulations

5. After regulation 33 of the principal Regulations (notional capital) there shall be inserted the following regulation –

"Diminishing notional capital rule

33A.—(1) Where a claimant is treated as possessing capital under regulation 33(1) (notional capital), the amount which he is treated as possessing –

(a) in the case of a week that is subsequent to –

(i) the relevant week in respect of which the conditions set out in paragraph (2) are satisfied, or

(ii) a week which follows that relevant week and which satisfies those conditions,

shall be reduced by an amount determined under paragraph (3);

(b) in the case of a week in respect of which paragraph (1)(a) does not apply but where –

(i) that week is a week subsequent to the relevant week, and

(ii) that relevant week is a week in which the condition in paragraph (4) is satisfied,

shall be reduced by the amount determined under paragraph (4).

(2) This paragraph applies to a benefit week or part week where the claimant satisfies the conditions that –

(a) he is in receipt of community charge benefit; and

(b) but for regulation 33(1), he would have received an additional amount of community charge benefit in that week.

(3) In a case to which paragraph (2) applies, the amount of the reduction for the purposes of paragraph (1)(a) shall be equal to the aggregate of –

(a) the additional amount to which sub-paragraph (2)(b) refers, and

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(a) 1987 c.47.

(b) where the claimant has also claimed housing benefit, the amount of any housing benefit to which he would have been entitled but for the application of regulation 43(1) of the Housing Benefit (General) Regulations 1987 (notional capital).

(4) Subject to paragraph (5), for the purposes of paragraph (1)(b) the condition is that the claimant would have been entitled to community charge benefit in the relevant week but for regulation 33(1), and in such a case the amount shall be equal to the aggregate of –

(a) the amount of community charge benefit to which the claimant would have been entitled in the relevant week but for regulation 33(1); and for the purposes of this sub-paragraph if the relevant week is a part-week that amount shall be determined by dividing the amount of community charge benefit to which he would have been so entitled by the number equal to the number of days in the part-week and multiplying the quotient so obtained by 7;

(b) if the claimant would, but for regulation 43(1) of the Housing Benefit (General) Regulations 1987 have been entitled to housing benefit or to an additional amount of housing benefit in respect of the benefit week, within the meaning of regulation 2(1) of those Regulations (interpretation), which includes the last day of the relevant week the amount (if any) which is equal to –

(i) in a case where no housing benefit is payable, the amount to which he would have been entitled, or

(ii) in any other case, the amount equal to the additional amount of housing benefit to which he would have been entitled.

(5) The amount determined under paragraph (4) shall be re-determined under that paragraph if the claimant makes a further claim for community charge benefit and the conditions in paragraph (6) are satisfied, and in such a case –

(a) sub-paragraphs (a) and (b) of paragraph (4) shall apply as if for the words "relevant week" there were substituted the words "relevant subsequent week"; and

(b) subject to paragraph (7), the amount as re-determined shall have effect from the first week following the relevant subsequent week in question.

(6) The conditions are that –

(a) a further claim is made 26 or more weeks after –

(i) the date on which the claimant made a claim for community charge benefit in respect of which he was first treated as possessing the capital in question under regulation 33(1),

(ii) in a case where there has been at least one re-determination in accordance with paragraph (5), the date on which he last made a claim for community charge benefit which resulted in the weekly amount being re-determined, or

(iii) the date on which he last ceased to be entitled to community charge benefit,

whichever last occurred; and

(b) the claimant would have been entitled to community charge benefit but for regulation 33(1).

(7) The amount as re-determined pursuant to paragraph (5) shall not have effect if it is less than the amount which applied in that case immediately before the re-determination and in such a case the higher amount shall continue to have effect.

(8) For the purposes of this regulation –

(a) "part-week" means a period of less than a week for which community charge benefit is allowed;

(b) "relevant week" means the benefit week or part-week in which the capital in question of which the claimant has deprived himself within the meaning of regulation 33(1) –

(i) was first taken into account for the purpose of determining his entitlement to community charge benefit, or

(ii) was taken into account on a subsequent occasion for the purpose of determining or re-determining his entitlement to community charge benefit on that subsequent occasion and that determination or re-determination resulted in his beginning to receive, or ceasing to receive, community charge benefit,

and where more than one benefit week or part-week is identified by reference to heads (i) and (ii) of this sub-paragraph the later or latest such benefit week or, as the case may be, the later or latest such part-week;

(c) "relevant subsequent week" means the benefit week or part-week which includes the day on which the further claim or, if more than one further claim has been made, the last such claim was made.".

Amendment of regulation 53 of the principal Regulations

6. In regulation 53 of the principal Regulations (date on which entitlement is to begin) –

(a) for paragraph (2) there shall be substituted the following paragraph –

"(2) Where a person is otherwise entitled to community charge benefit and –

(a) he or his partner becomes liable for an appropriate authority's personal community charge on a day prior to which he or his partner was not liable for that charge or for a collective community charge contribution in the area of that authority; or

(b) ceases to be a registered student; or

(c) his partner ceases to be a registered student; or

(d) acquires a partner or acquires a new partner,

if his claim for community charge benefit on behalf of himself and his partner is made or is treated as made in the benefit week in which any of the conditions in the above sub-paragraphs is satisfied, he and his partner shall be so entitled from that benefit week.";

(b) in paragraph (3) for the words "he shall be so entitled" there shall be substituted the words "he and any partner he may have who also satisfies the provisions of this paragraph shall be so entitled".

Amendment of regulation 54 of the principal Regulations

7. In regulation 54(1)(b) of the principal Regulations (benefit period) after the word "office" the following words shall be added –

"or, where the claim is one to which regulation 60(4) (notification of changes affecting a claimant or his partner) applies, one of the offices referred to in regulation 60(5)(b).".

Amendment of regulation 55 of the principal Regulations

8. In regulation 55 of the principal Regulations (date on which the benefit period is to end) the word "or" after paragraph (b) shall be omitted and the following new paragraph shall be inserted –

"(bb) the claimant has given notice to the appropriate authority of any of the changes of circumstances to which regulation 60(4) refers, when his benefit period and, where community charge benefit is payable by that authority to his partner, his partner's benefit period shall end with the day immediately preceding the day on which the change of circumstances takes effect in accordance with regulation 56; or".

Amendment of regulation 56 of the principal Regulations

9. In regulation 56 of the principal Regulations (date on which change of circumstances is to take effect) –

(a) after paragraph (3) the following new paragraph shall be inserted –

"(3A) If the change of circumstances is any of the changes to which regulation

60(4) refers, the change of circumstances shall take effect –

(a) where the notification of the change is given to one of the offices referred to in regulation 60(5)(b) in the benefit week in which the change occurs, on the day on which the change occurs; or

(b) where the notification of the change is given later than the benefit week in which the change –

(i) with respect to the claimant occurred, on the first day of the benefit week following the day on which the change occurred, and

(ii) with respect to the claimant's partner occurred, on the first day of the next benefit week which follows the day on which the notification is given.".

(b) in paragraph (4) for the words "paragraphs (1) to (3)" there shall be substituted the words "paragraphs (1) to (3A)" and for the words "paragraph (2) or (3)" there shall be substituted the words "paragraph (2), (3) or (3A)".

Amendment of regulation 60 of the principal Regulations

10. In regulation 60 of the principal Regulations (time and manner in which claims are to be made) –

(a) for paragraph (4) there shall be substituted the following paragraph –

"(4) Where in the course of a benefit period –

(a) a claimant's partner becomes liable for the appropriate authority's personal community charge or for a collective community charge contribution in that authority's area on a day prior to which the partner was not so liable; or

(b) a claimant or his partner ceases to be a registered student; or

(c) a claimant acquires a partner or acquires a new partner,

and the claimant gives notice of any such change of circumstances at –

(i) either of the offices referred to in paragraph (5)(b), where the claimant or his partner is a person on income support, or

(ii) the designated office in any other case,

the notification may also have effect as a new claim for community charge benefit for both the claimant and his partner.";

(b) after paragraph (4) there shall be inserted the following paragraph –

"(4A) Where both partners give notice in accordance with paragraph (4) the claimant for the purposes of any new claim shall be determined in accordance with regulation 59(1) (claims by couples).".

Amendment of Schedule 1 to the principal Regulations

11. In Schedule 1 to the principal Regulations (applicable amounts) –

(a) in paragraph 4 for the reference "8 to 15" there shall be substituted the reference "8 to 15A";

(b) in paragraph 6(2) for the words "The disabled child premium to which paragraph 15 applies" there shall be substituted the words "The disabled child premium and the carer premium to which paragraphs 15 and 15A respectively apply";

(c) paragraph 7 the words "Subject to sub-para-graph (2)," shall be inserted at the beginning and after sub-paragraph (1) there shall be added the following sub-paragraph –

"(2) For the purposes of the carer premium under paragraph 15A, a person shall be treated as being in receipt of invalid care allowance by virtue of sub-paragraph (1)(a) only if and for so long as the person in respect of whose care the allowance has been claimed remains in receipt of attendance allowance.";

(d) after paragraph 15 there shall be inserted the following paragraph –

"Carer premium

15A.—(1) The condition is that the claimant or his partner is, or both of them are, in receipt of invalid care allowance under section 37 of the Social Security Act(**a**).

(2) If a claimant or his partner, or both of them, would be in receipt of invalid care allowance but for the provisions of the Social Security (Overlapping Benefits) Regulations 1979(**b**), where –

(a) the claim for that allowance was made on or after the 1st October 1990, and

(b) the person or persons in respect of whose care the allowance has been claimed remains or remain in receipt of attendance allowance,

he or his partner, or both of them, as the case may be, shall be treated for the purposes of sub-paragraph (1) as being in receipt of invalid care allowance.";

(e) in paragraph 17 at the end the following sub-paragraph shall be added –

"(8) Carer premium	(8) £10
	in respect of each person who satisfies the condition specified in paragraph 15A.".

Amendment of Schedule 2 to the principal Regulations

12. In Schedule 2 to the principal Regulations (sums to be disregarded in the calculation of earnings) for paragraph 4 there shall be substituted the following paragraph –

"**4.** If an amount by way of a lone parent premium under Schedule 1 (applicable amounts) is or, but for any pensioner premium, higher pensioner premium or disability premium being applicable to him, would be included in the calculation of the claimant's applicable amount, £25.".

Amendment of Schedule 3 to the principal Regulations

13. In Schedule 3 to the principal Regulations (sums to be disregarded in the calculation of income other than earnings) –

(a) for paragraph 13 there shall be substituted the following paragraph –

"**13.**—(1) Except where sub-paragraph (2) applies and subject to sub-paragraph (3) and paragraphs 34 and 35, £10 of any charitable payment or of any voluntary payment made or due to be made at regular intervals.

(2) Subject to sub-paragraph (3) and paragraph 35, any charitable payment or voluntary payment made or due to be made at regular intervals which is intended and used for an item other than food, ordinary clothing or footwear, household fuel, eligible rent, community charge or water charges of a single claimant or, as the case may be, of the claimant or any other member of his family.

(3) Sub-paragraphs (1) and (2) shall not apply to a payment which is made by a person for the maintenance of any member of his family or of his former partner or of his children.

(4) For the purposes of sub-paragraph (1) where a number of charitable or voluntary payments fall to be taken into account in any one week they shall be treated as though they were one such payment.

(5) For the purposes of sub-paragraph (2) the expression "ordinary clothing or footwear" means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.".

(b) after paragraph 42 there shall be added the following paragraphs –

(**a**) Section 37 was amended by the Social Security Act 1986, section 37(1) and Schedule 11 and by the Social Security Act 1989 (c.24), Schedule 7, paragraph 10. (**b**) S.I. 1979/597.

"**43.**—(1) Any payment or repayment made –

(a) as respects England and Wales, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988**(a)** (travelling expenses and health service supplies);

(b) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988**(b)** (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Secretary of State for Scotland or the Secretary of State for Wales which is analogous to a payment or repayment mentioned in sub-paragraph (1).

44. Any payment made under regulation 9 to 11 or regulation 13 of the Welfare Food Regulations 1988**(c)** (payments made in place of milk tokens or the supply of vitamins).

45. Any payment made by either the Secretary of State for the Home Department or by the Secretary of State for Scotland under a scheme established to assist relatives and other persons to visit persons in custody.".

Amendment of Schedule 4 to the principal Regulations

14. In Schedule 4 to the principal Regulations (capital to be disregarded) –

(a) in paragraph 4 for the words "any member of" there shall be substituted the words "a single claimant or any member of";

(b) in paragraph 7 at the end there shall be added the following sub-paragraph –

"(2) The assets of any business owned in whole or in part by the claimant where –

(a) he is not engaged as a self-employed earner in that business by reason of some disease or bodily or mental disablement; but

(b) he intends to become engaged or, as the case may be, re-engaged as a self-employed earner in that business as soon as he recovers or is able to become engaged, or re-engaged, in that business;

for a period of 26 weeks from the date on which the claim for community charge benefit is made, or is treated as made, or, if it is unreasonable to expect him to become engaged or re-engaged in that business within that period, for such longer period as is reasonable in the circumstances to enable him to become so engaged or re-engaged.";

(c) for paragraph 13 there shall be substituted the following paragraph –

"**13.** Where the funds of a trust are derived from a payment made in consequence of any personal injury to the claimant, the value of the trust fund and the value of the right to receive any payment under that trust.";

(d) after paragraph 36 the following paragraphs shall be added –

"**37.** Any arrears of special war widows payment which is disregarded under paragraph 42 of Schedule 3 (sums to be disregarded in the calculation of income other than earnings)**(d)**, but only for a period of 52 weeks from the date of the receipt of the arrears.

38.—(1) Any payment or repayment made –

(a) as respects England and Wales, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 (travelling expenses and health service supplies);

(b) as respects Scotland, under regulation 3, 5 or 8 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988 (travelling expenses and health service supplies);

(a) S.I. 1988/551. **(b)** S.I. 1988/546. **(c)** S.I. 1988/536; the relevant amending instrument is S.I. 1990/3.
(d) Paragraph 42 was added by S.I. 1990/834.

but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

(2) Any payment or repayment by the Secretary of State for Health, the Secretary of State for Scotland or the Secretary of State for Wales which is analogous to a payment or repayment mentioned in sub-paragraph (1); but only for a period of 52 weeks from the date of the receipt of the payment or repayment.

39. Any payment made under regulation 9 to 11 or regulation 13 of the Welfare Food Regulations 1988 (payments made in place of milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of the receipt of the payment.

40. Any payment made either by the Secretary of State for the Home Department or by the Secretary of State for Scotland under a scheme established to assist relatives and other persons to visit persons in custody, but only for a period of 52 weeks from the date of the receipt of the payment.".

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

Gillian Shephard
Parliamentary Under-Secretary of State,
Department of Social Security

28th August 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Community Charge Benefits (General) Regulations 1989 in the following respects —

(a) they provide that payments to a third party in respect of a claimant for community charge benefit or a member of his family to the extent it is used for paying water charges are to be treated as the claimant's income or capital (regulations 3 and 4);

(b) they provide for the reduction of notional capital (regulation 5);

(c) they make further provision in respect of claims and changes of circumstances affecting a claimant and his partner (regulations 6-10);

(d) they add a new premium, the carer premium, to the premiums which may form part of a community charge benefit claimant's applicable amount where the claimant or his partner is or, in certain cases, would be in receipt of invalid care allowance (regulation 11);

(e) they increase the amount of income to be disregarded from a lone parent's earnings (regulation 12);

(f) they make provision in respect of the income from charitable or voluntary payments which is to be disregarded in calculating a person's income, they provide for the disregard from a person's income and capital of travelling expenses, National Health Service payments and payments in place of milk tokens or the supply of vitamins and, as regards capital only, provide for the disregard of certain trust funds, the value of premises occupied by relatives of single claimants, arrears of special war widows' payments and they extend the provisions under which the assets of a business may be disregarded (regulations 13 and 14).