STATUTORY INSTRUMENTS

1984 No. 940

HOUSING, ENGLAND AND WALES

HOUSING, SCOTLAND

RATING AND VALUATION

The Housing Benefits Amendment (No. 3) Regulations 1984

Made - - -	*3rd July* 1984
Laid before Parliament	*6th July* 1984
Coming into Operation	
Regulations 1, 2(1) *to* (3) *and* (11)	*1st September* 1984
Regulations 2(4) *to* (10)	*26th November* 1984

The Secretary of State for Social Services, in exercise of the powers conferred on him by section 28(1) of the Social Security and Housing Benefits Act 1982(**a**) and of all other powers enabling him in that behalf, with the consent of the Treasury, after consultation with organisations appearing to him to be representative of authorities concerned (**b**), and after reference to the Social Security Advisory Committee except insofar as it has agreed that proposals to make regulation 2(2), (3), (4), (5)(a), (d) and (e) to the extent that it inserts a new paragraph (6B), (6), (9), (10) and (11) should not be referred to it (**c**), hereby makes the following regulations:—

Citation and commencement

1. These regulations, which may be cited as the Housing Benefits Amendment (No. 3) Regulations 1984, shall come into operation as follows:—

(*a*) regulations 1 and 2(1) to (3) and (11) on 1st September 1984;

(*b*) regulations 2(4) to (10) on 26th November 1984.

Amendment of the Housing Benefits Regulations 1982

2.—(1) The Housing Benefits Regulations 1982(**d**) shall be amended in accordance with the following provisions of this regulation.

(2) In regulations 6(1) (eligibility for rate rebate), 7(1) (eligibility for rent rebate) and 8(1) (eligibility for rent allowance) for the words "and 11(2)" on each occasion where they appear there shall be substituted the words ", 11(2) and 11A".

(**a**) 1982 c.24.

(**b**) *See* section 36(1) of the Social Security and Housing Benefits Act 1982.

(**c**) *See* sections 9 and 10 of the Social Security Act 1980 (c.30) as amended by section 48(5) of and paragraph 30 of Schedule 4 to the Social Security and Housing Benefits Act 1982.

(**d**) S.I. 1982/1124; the relevant amending instruments are S.I. 1982/1519, 1983/57, 1014, 1239 and 1984/103, 104.

(3) The following regulation shall be inserted after regulation 11:—

"Students from abroad

11A.—(1) Except in a certificated case, a student with limited leave or without leave to enter or remain in the United Kingdom shall not be eligible for housing benefit.

(2) In this regulation "student with limited leave or without leave to enter or remain in the United Kingdom" means a person who is present in the United Kingdom for the purpose of attending a course of education, whether or not he is for the time being engaged in a programme of studies, and who —

(*a*) is a person, other than a national of a member State or a person to whom the European Convention on Social and Medical Assistance done in Paris on 11 December 1953(**a**) applies, who has a limited leave (as defined in section 33(1) of the Immigration Act 1971(**b**)) to enter or remain in the United Kingdom which was given in accordance with any provision of immigration rules (as defined in section 33(1) of that Act) which refers to there being, or to there needing to be, no recourse to public funds, or to there being no charge on public funds, during that limited leave, or

(*b*) having a limited leave (as defined in section 33(1) of the Immigration Act 1971) to enter or remain in the United Kingdom, has remained without further leave under that Act beyond the time limited by the leave, or

(*c*) is the subject of a deportation order, that is to say an order within section 5(1) of the Immigration Act 1971 requiring him to leave and prohibiting him from entering the United Kingdom, or

(*d*) is an illegal entrant (as defined in section 33(1) of the Immigration Act 1971) who is not given leave under that Act to enter or remain in the United Kingdom.".

(4) In regulation 16 (eligible rent) the following paragraph shall be inserted after paragraph (3):—

"(3A) In a certificated case where a rent rebate or a rent allowance is payable in accordance with regulation 5(2) in respect of two dwellings, no deduction shall be made under paragraph (2)(b) of this regulation in respect of the dwelling not being occupied by the eligible person.".

(5) In regulation 18 (non-dependants' deductions) —

(*a*) in paragraphs (1) and (2), for the words "paragraphs (3) to (6A)" on each occasion where they appear there shall be substituted the words "paragraphs (3) to (6C)";

(*b*) in paragraph (1)(a), the following head shall be inserted as head (i) immediately before head (ii) —

"(i) where he is aged 16 or 17, £0.95,";

(*c*) in paragraph (2)(a), the following head shall be inserted as head (i) immediately before head (ii) —

"(i) where he is aged 16 or 17, £2.35,";

(*d*) in paragraph (6A), for "regulation 28A" there shall be substituted "regulation 18A" and sub-paragraph (d) shall be omitted;

(**a**) Cmnd. 9512.
(**b**) 1971 c.77.

(*e*) the following paragraphs shall be inserted after paragraph (6A) —

"(6B) No deduction shall be made in respect of a non-dependant for any period before the terminal date within the meaning of regulation 7 of the Child Benefit (General) Regulations 1976(**a**).

(6C) No deduction shall be made in respect of a non-dependant aged 16 or 17 who is in receipt of a non-contributory invalidity pension under section 36 of the Social Security Act 1975(**b**).".

(6) The following regulation shall be inserted after regulation 18:—

"Lesser deductions for non-dependants in certain cases

18A.—(1) Where a non-dependant of a claimant for a housing benefit in respect of whom a deduction falls to be made under regulation 18 (deductions for non-dependants) fulfils the specified conditions and the claimant has furnished the appropriate authority with the necessary information, the authority shall, subject to paragraph (2), determine that the deduction in respect of that non-dependant shall be a lesser deduction.

(2) Where a claimant fails to furnish any necessary information within six weeks of being requested in writing to do so by the appropriate authority, the authority shall be under no duty to make a determination in accordance with paragraph (1).

(3) Subject to regulations 25 and 26 (duration of benefit period) a lesser deduction shall be made so as to take effect from the week in which the non-dependant in respect of whom the deduction falls to be made first fulfilled the necessary conditions and shall continue to be made until such time as he ceases to fulfil the condition as to income specified in regulation 18(6A).

(4) In this regulation —

"lesser deduction" means a deduction under regulation 18 in accordance with paragraph (6A) of that regulation in the calculation of a housing benefit;

"necessary information" means —

(*a*) a statement signed by the non-dependant in respect of whom the question of a lesser deduction arises to the effect that he fulfills the specified conditions, and

(*b*) such other information and evidence as the appropriate authority may reasonably require for the purposes of making the determination;

"specified conditions" means, in relation to a non-dependant, both of the following conditions —

(*a*) the condition as to income specified in regulation 18(6A), and,

(*b*) that, for a period of not less than fifty-six consecutive days, each day was a day —

(i) in respect of which he was in receipt of a benefit specified in sub-paragraphs (a) to (c) of regulation 18(6A) or would have been entitled to any such benefit but for section 15(3) of the Social Security Act 1975 (first three days) or section 17(1)(e) of that Act (Sundays and certain other days), or

(**a**) S.I. 1976/965, as amended by S.I. 1980/1045 and 1982/470.
(**b**) 1975 c.14.

(ii) which, for the purposes of Part I of the 1982 Act (statutory sick pay) was a day of incapacity for work in relation to his contract of service (and, if more than one, to each such contract) and fell within a period of entitlement to statutory sick pay.".

(7) In regulation 19(5)(b) (calculation of rent rebate or rent allowance) for "26%" there shall be substituted "29%".

(8) In regulation 20, for paragraph (1) (minimum amount of benefit), there shall be substituted the following paragraphs:—

"(1) If the weekly amount of a housing benefit calculated in accordance with the other provisions of these regulations would be less than the appropriate minimum, it shall not be granted.

(1A) In paragraph (1), "appropriate minimum" means —

(*a*) in a certificated case, a case in which the eligible person has claimed and is entitled to supplementary benefit for the purposes of ascertaining which a requirement is applicable under regulation 19 of the Requirements Regulations (housing benefit supplement) or a case in which the weekly income of the eligible person and any partner of his is less than the amount of the needs allowance applicable to his case —

(i) for the purposes of a rate rebate, 10 pence per week, and

(ii) for the purposes of a rent rebate or rent allowance, 20 pence per week;

(*b*) in any other case, for the purpose of a rate rebate, rent rebate or rent allowance, 50 pence per week.".

(9) In regulation 28(2) (procedure following a claim), the following sub-paragraph shall be inserted after sub-paragraph (c):—

"(cc) any necessary information within the meaning of regulation 18A (lesser deductions for certain non-dependants);".

(10) Regulation 28A shall be omitted.

(11) In Schedule 1 (students) —

(*a*) the following words shall be added at the end of Part I —

"Class 24: any award or grant for the purpose of attending a course of education which is financed out of the public funds of another country or is otherwise made by or on behalf of the government of, or an institution funded out of the public funds of, another country"; and

(*b*) in Part II at the end of column 1, there shall be added the words "Class 24" and opposite those words in column 2 there shall be added the words "The period for which the grant or award in question is tenable".

Signed by authority of the Secretary of State for Social Services.
Rhodes Boyson,
Minister of State,
Department of Health and Social Security.

3rd July 1984.

We consent,

Alastair Goodlad,
Donald Thompson,
Two of the Lords Commissioners of
Her Majesty's Treasury.

3rd July 1984.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These regulations make various amendments to the Housing Benefits Regulations 1982 ("the 1982 regulations") which contain the statutory schemes for the grant of rate rebates, rent rebates and rent allowances (collectively called "housing benefits"):—

— a new regulation 11A provides that students from foreign countries other than signatories to the European Convention on Social and Medical Assistance 1953 are to be excluded from entitlement to housing benefits; Schedule 1 is amended to provide that any grant a student receives from or on behalf of the government of another country is to be taken into account in the same way as if it were financed out of public funds in this country;

— regulation 16 is amended so as to provide that, where a person is entitled in a certificated case within the meaning of regulation 2(1) of the 1982 regulations to a housing benefit in respect of two homes, no deduction is to be made in the calculation of his eligible rent under regulation 16 for amounts in respect of fuel in respect of the home not occupied by the eligible person;

— regulation 18 is amended to provide for a deduction to be made in the calculation of a person's housing benefits if a non-dependant aged 16 or 17 lives in his household; no non-dependant deduction is to apply where a 16 or 17 year old is in receipt of a non-contributory invalidity pension or for any period before the terminal date for the purposes of child benefit;

— a new regulation 18A provides that lesser deductions in respect of certain non-dependants are no longer to be subject to the requirement of a special application and are to be made from the date when the conditions for the lesser deduction are first satisfied;

— regulation 19 is amended so as to provide that the percentage used to calculate the amount by which a rent rebate or rent allowance is reduced for each pound of income above the needs allowance is increased from 26% to 29%;

— regulation 20 is amended so as to provide that in cases other than certificated cases under regulation 9 of the 1982 regulations, cases where the eligible person is in receipt of supplementary benefit which includes an amount in respect of housing benefit supplement or cases where the weekly income of the eligible person or any partner of his falls below the level of the appropriate needs allowance, the minimum amount of a housing benefit which can be granted is 50 pence.

The Report of the Social Security Advisory Committee dated 21st December 1983 on the proposals relevant to certain of these regulations and a statement showing the extent to which these regulations give effect to the Committee's recommendations and, in so far as they do not give effect to them, the reasons why not, are contained in Command Papers Nos. 9150 and 9295 respectively, published by Her Majesty's Stationery Office. The Committee agreed that the proposals to make the other regulations in this Instrument should not be referred to it.

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