STATUTORY INSTRUMENTS

1984 No. 1965

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

The Housing Benefits Amendment (No. 4) Regulations 1984

Made - - -	17*th December* 1984
Laid before Parliament	18*th December* 1984
Coming into Operation	19*th December* 1984

The Secretary of State for Social Services, with the consent of the Treasury(**a**), in exercise of the powers conferred on him by section 28(1) of the Social Security and Housing Benefits Act 1982(**b**), after consultation with organisations appearing to him to be representative of authorities concerned(**c**), the Social Security Advisory Committee having agreed that the proposals to make regulation 2(2), (3), (4) and (7) should not be referred to it, but without having referred the proposals to make regulation 2(5) and (6) to the Committee since it appears to the Secretary of State that, by reason of urgency, it is inexpedient to do so(**d**), hereby makes the following regulations:—

Citation and commencement

1. These regulations, which may be cited as the Housing Benefits Amendment (No. 4) Regulations 1984, shall come into operation on 19th December 1984.

Amendment of the Housing Benefits Regulations 1982

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

(2) In regulation 2(1) (interpretation) in the definition of "rent", after paragraph (*c*) there shall be inserted the following new paragraph:—

"(*cc*) payments in respect of or in consequence of use and occupation of a dwelling,".

(3) In regulation 6 (eligibility for rate rebate) the following paragraph shall be substituted for paragraph (2):—

"(2) Notwithstanding paragraph (1) —

(**a**) *See* section 28(1) of the Social Security and Housing Benefits Act 1982 (c.24).
(**b**) 1982 c.24.
(**c**) *See* section 36(1) of the Social Security and Housing Benefits Act 1982.
(**d**) *See* sections 9(7) 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.
(**e**) S.I. 1982/1124; the relevant amending instruments are S.I. 1519, 1984/104.

(*a*) subject to regulation 8A, a boarder on supplementary benefit is not eligible for a rate rebate in respect of the dwelling at which he boards; and

(*b*) a person who is entitled to supplementary benefit but who is not treated under sub-paragraph (*a*) of regulation 14(3) of the Requirements Regulations as responsible for housing expenditure is not eligible for a rate rebate in respect of that housing expenditure.".

(4) In regulation 8(3) (eligibility for rent allowance) —

(*a*) in sub-paragraph (*a*) the word "and" shall be omitted;

(*b*) in sub-paragraph (*b*) after "he boards" there shall be inserted "; and"; and

(*c*) the following sub-paragraph shall be inserted after sub-paragraph (*b*) —

"(*c*) a person who is entitled to supplementary benefit but who is not treated under sub-paragraph (*a*) of regulation 14(3) of the Requirements Regulations as responsible for housing expenditure is not eligible for a rent allowance in respect of that housing expenditure.".

(5) In regulation 11 (joint occupiers) —

(*a*) in paragraph (1) for "paragraph (2)" there shall be substituted "paragraphs (2) and (3); and

(*b*) the following paragraph shall be inserted after paragraph (2):—

"(3) If a joint occupier of his dwelling was, at any time during the period of eight weeks prior to the creation of the joint tenancy or other agreement giving rise to the joint liability to pay rent or, as the case may be, to make payments by way of rates, a non-dependant of one or more of the other joint occupiers of that dwelling, he shall not be eligible for housing benefit in respect of that dwelling unless the appropriate authority is satisfied that that joint tenancy or other agreement was not created to take advantage of the rate rebate scheme, the rent rebate scheme or the rent allowance scheme, as the case may be.".

(6) In regulation 18 (deductions for non-dependants) the following paragraph shall be inserted after paragraph (3):—

"(3A) For the purposes of this regulation, where a person who is a joint occupier of his dwelling is not eligible for a housing benefit by virtue of regulation 11(3), he shall be treated as a non-dependant in respect of whom a deduction falls to be made in calculating any housing benefit payable to any of the other joint occupiers of that dwelling.".

(7) The following regulation shall be substituted for regulation 23 (disentitlement for rent allowance and rate rebate):—

"Disentitlement to rent allowance and rate rebate

23.—(1) A person shall not be entitled to a rent allowance or, as the case may be, a rate rebate where it appears to the appropriate authority

that the tenancy or other agreement to pay rent or, as the case may be, to make payments by way of rates was created to take advantage of the rent allowance scheme, or insofar as the tenancy or other agreement relates to payments by way of rates, the rate rebate scheme, so however that this provision shall not apply to a person who was, for any period within the eight weeks prior to the creation of the tenancy or other agreement to pay rent or, as the case may be, to make payments by way of rates, otherwise liable to pay rent in respect of the same dwelling.

(2) A person shall not be entitled to a rent allowance or, as the case may be, a rate rebate where —

(*a*) he resides with the person to whom he is liable to pay rent or, as the case may be, to make payments by way of rates in respect of the dwelling; and

(*b*) either that person is a close relative or the tenancy or other agreement between them is other than on a commercial basis.

(3) For the purposes of paragraph (2), "close relative" means a parent, son, daughter, step-parent, step-son, step-daughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother, sister, brother-in-law or sister-in-law.".

Norman Fowler,
Secretary of State for Social Services.

17th December 1984.

We consent,

T. Garel-Jones,
A. G. Hamilton,
Two of the Lords Commissioners of
Her Majesty's Treasury.

17th December 1984.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Housing Benefits Regulations 1982 ("the principal regulations"). The definition of rent in regulation 2 of the principal regulations is amended to include payments in respect of or in consequence of use and occupation of a dwelling. Regulations 6 and 8 of the principal regulations are amended to provide that a person who is treated as a non-householder (a person not responsible for housing expenditure) for the purposes of the Supplementary Benefit (Requirements) Regulations 1983 (S.I. 1983/1399) is not eligible for a rate rebate or rent allowance in respect of the dwelling in which he is treated as a non-householder.

Regulation 11 of the principal regulations is amended to provide that where a joint tenancy or other joint agreement to pay rent or rates is entered into within eight weeks of one of the joint occupiers being a non-dependant in the same dwelling, the person who was previously a non-dependant is not eligible for housing benefit. Regulation 18 of the principal regulations is amended to provide that the other joint occupiers are still treated as liable to a non-dependant deduction in the calculation of their housing benefit.

A new regulation is substituted for regulation 23 of the principal regulations. The new regulation provides that a person not previously liable to pay rent for a dwelling is not entitled to a rate rebate or a rent allowance in respect of that dwelling if the agreement to pay rates or rent was entered into in order to take advantage of the housing benefits scheme. It also provides that a person who resides with a close relative as defined or who is paying rates or rent other than on a commercial basis to the person with whom he resides is not entitled to a rate rebate or rent allowance.

Regulation 2(5) and (6) will be referred to the Social Security advisory Committee under sub-section (7) of section 10 of the Social Security Act 1980 unless the Committee agrees that that sub-section shall not apply. The Committee agreed that the proposals to make the other regulations in this Instrument should not be referred to it.

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