STATUTORY INSTRUMENTS

1983 No. 57

HOUSING, ENGLAND AND WALES
HOUSING, SCOTLAND
RATING AND VALUATION

The Housing Benefits (Miscellaneous Amendments) Regulations 1983

Made - - - 24*th January* 1983

Laid before Parliament 31*st January* 1983

Coming into Operation in accordance with regulation 1

for certain purposes 1*st April* 1983

for all other purposes 4*th April* 1983

The Secretary of State for Social Services, in exercise of the powers conferred on him by section 28(1) and (2) of the Social Security and Housing Benefits Act 1982(**a**) ("the 1982 Act") 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**), hereby makes the following regulations.

This instrument satisfies the requirements of paragraph 38 of Schedule 4 to the 1982 Act, and the Secretary of State has not referred proposals to make any of the regulations contained in it to the Industrial Injuries Advisory Council or the Social Security Advisory Committee.

Citation and commencement

1. These regulations, which may be cited as the Housing Benefits (Miscellaneous Amendments) Regulations 1983, amend the Housing Benefits Regulations 1982(**c**) (hereinafter referred to as "the principal regulations") and the Housing Benefits (Transitional) Regulations 1982(**d**) (hereinafter referred to as "the transitional regulations") and shall come into operation as follows:—

(*a*) on 1st April 1983 in so far as they relate to rate rebate for a person or his partner (within the meaning of the principal regulations) where that person is not a tenant of a housing authority;

(*b*) on 4th April 1983 for all other purposes.

(**a**) 1982 c.24.
(**b**) *See* section 36(1)(*a*) of the Social Security and Housing Benefits Act 1982.
(**c**) S.I. 1982/1124, amended by S.I. 1982/1519.
(**d**) S.I. 1982/1520.

Amendment of regulation 18 of the principal regulations

2. In regulation 18 of the principal regulations (deductions for non-dependants) —

(*a*) in paragraphs (1) and (2) for "paragraphs (3) to (6)" there is substituted in each case "paragraphs (3) to (6A)";

(*b*) after paragraph (6) there is inserted the following paragraph:—

"(6A) Subject to a determination under regulation 28A, a non-dependant in respect of whom a deduction is to be made who is not a person aged 18 or more in receipt of supplementary benefit shall be treated for the purposes of paragraphs (1) and (2) as though he were such a person for each week in respect of which he has income consisting only of one or more of the following benefits:—

(*a*) unemployment benefit under section 14 of the Social Security Act 1975(**a**);

(*b*) sickness benefit under section 14 of that Act;

(*c*) maternity allowance under section 22 of that Act;

(*d*) injury benefit under section 56 of that Act(**b**) (including such benefit payable by virtue of regulations made under section 39(5) of the 1982 Act); or

(*e*) child benefit under the Child Benefit Act 1975(**c**).".

New regulation 28A of the principal regulations

3. After regulation 28 of the principal regulations there is inserted the following regulation:—

"*Application for lesser deduction for non-dependants*

28A.—(1) A claimant for a housing benefit or a beneficiary may make application in writing to the appropriate authority for a deduction in respect of a non-dependant of his to be a lesser deduction on the grounds that that non-dependant fulfils the specified conditions.

(2) An applicant shall furnish the appropriate authority with —

(*a*) a statement signed by the non-dependant to whom the application relates to the effect that he fulfils the specified conditions; and

(*b*) such other information and evidence as it may reasonably require for the purposes of determining the application.

(3) Paragraphs (4) to (6) of regulation 28 shall apply to an application as they apply to a claim for a housing benefit.

(**a**) 1975 c.14.
(**b**) Section 56 is repealed by section 39(1) of the Social Security and Housing Benefits Act 1982 with effect from 6th April 1983 (*see* Article 2 of, and the Schedule to, the Social Security and Housing Benefits Act 1982 (Commencement No. 1) Order 1982 (S.I. 1982/893 (C.23)), but transitional and saving provision may be made under section 39(5) of that Act.
(**c**) 1975 c. 61.

(4) Where an applicant fails to furnish any statement or other information or evidence referred to in paragraph (2) within six weeks of being requested to do so by the appropriate authority, that authority may, unless it considers that such failure was reasonable in all the circumstances, treat his application as having been withdrawn.

(5) On an application the appropriate authority shall determine that a lesser deduction shall be made in respect of a non-dependant if he fulfils the specified conditions and if the requirement to furnish a statement, imposed by paragraph (2)(*a*), has been met, but not otherwise.

(6) Subject to regulations 25 and 26 (duration of benefit period) and to paragraph (7), a lesser deduction determined to be made in respect of a non-dependant shall be made so as to take effect from the week in which the application for it was made and shall continue to be made until such time as he ceases to fulfil the condition as to income specified in regulation 18(6A).

(7) Where—

(*a*) a determination (in this paragraph referred to as "the first determination") is made by the appropriate authority that a deduction under regulation 18(1) or (2) shall be made in respect of a non-dependant of a person;

(*b*) that person makes an application within 28 days of notification having been given to him of the first determination; and

(*c*) the appropriate authority determines in accordance with paragraph (5) that a lesser deduction shall be made in respect of that non-dependant,

that lesser deduction shall be made so as to take effect from the week in which the first determination is made or from the week in which that non-dependant first fulfils the specified conditions in relation to that application, whichever is the later.

(8) In this regulation—

"application" means an application under paragraph (1) and "applicant" shall be construed accordingly;

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

"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 each of the ninety days immediately preceding the date of the making of the application in respect of him was a day—

(i) in respect of which he was in receipt of a benefit specified in any of sub-paragraphs (*a*) to (*d*) 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

(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;

and for the purposes of this regulation an application is made on the date on which it is received by the appropriate authority.".

Amendment of regulation 29 of the principal regulations

4. In regulation 29(2) (extent of duty to notify changes of circumstances in certificated cases)—

(*a*) at the end of sub-paragraph (*a*) the word "or" is omitted; and

(*b*) there is added after sub-paragraph (*d*) the following sub-paragraph:—

"(*e*) where a deduction is being made in respect of a non-dependant of his in accordance with regulation 18(6A), or he has applied for such a deduction to be made, a change affecting the amount of that deduction,".

Amendment of regulation 51 of the principal regulations

5. In regulation 51 of the principal regulations (transitory provision for supplement to rent rebate or allowance)—

(*a*) in paragraph (2) after "taken" there is inserted, "subject to any reduction under paragraph (2A),";

(*b*) after paragraph (2) there is inserted the following paragraph:—

"(2A) In a case where the amount resulting from the calculation set out in regulation 19 is a negative amount (so that no rent rebate or rent allowance is payable under Part III of these regulations) the figure taken for the purposes of paragraph (2) shall be reduced by that amount."; and

(*c*) in paragraph (4)(*a*) and (*b*) for "an alteration of any needs allowance" there is substituted in each case "a variation of any needs allowance under section 29 of the 1982 Act".

Amendment of Schedule 2 to the principal regulations

6. In Schedule 2 to the principal regulations there is inserted after paragraph 17 the following paragraph:—

"17A. Any payment made in accordance with a scheme approved by the Secretary of State under section 50(4) of the Adoption Act 1958(**a**) (schemes for payment of allowances for adopters), to the extent, if any, to which it exceeds the amount by which, under regulation 13(3), the needs allowance is increased in respect of a dependent child.".

(**a**) 1958 c.5; subsection (4) of section 50 was added by section 32 of the Children Act 1975 (c.72).

Amendment of the transitional regulations

7. After regulation 5 of the transitional regulations there is inserted the following regulation:—

> *"Rates or rent paid in advance for April 1983*
> 5A. Where a person's benefit period begins on the relevant date, regulations 15(8) and 16(10) (under which certain payments may be treated as payable during a benefit period although made outside it) shall have effect until 1st May 1983 as though for the reference to any complete week during the benefit period there were substituted a reference to any day during that period.".

Norman Fowler,
Secretary of State for Social Services.

19th January 1983.

We consent,

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

24th January 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Housing Benefits Regulations 1982 which contain the statutory schemes for the granting of rate rebates, rent rebates and rent allowances (together called "housing benefits") and the Housing Benefits (Transitional) Regulations 1982 which make transitional provision in connection with the introduction of those schemes.

Regulations 2 and 3 amend the provision under the statutory schemes for making a deduction, when calculating the amount of a person's housing benefit, in respect of certain non-dependent persons living in his home. That deduction is of a lesser amount where the non-dependant is in receipt of supplementary benefit. These regulations extend the circumstances in which the deduction is to be of that lesser amount to those where the non-dependant has an income consisting only of certain other benefits (regulation 2), subject to a specific application being made and to the non-dependant having been in continuous receipt of specified benefits for 90 days prior to the application (regulation 3). A consequential amendment is made to the duty on recipients of a housing benefit to report changes of circumstances to the relevant local authority. Under the statutory schemes this duty is limited, in the case of persons receiving supplementary benefit, to reporting only various specified changes; these regulations extend that duty to reporting certain changes affecting the amount of a deduction in respect of a non-dependant (regulation 4(*b*)).

The other amendments of substance made by these regulations are as follows:—

(*a*) to alter the formula for calculating the amount of a special payment of rent rebate or allowance (made to certain persons under a transitory provision until April 1984) where a person is not entitled to any other payment of rent rebate or allowance under the statutory schemes (regulation 5(*a*) and (*b*));

(*b*) to provide, that in the calculation of a person's income for the purposes of housing benefits, certain allowances paid to adopters are to be disregarded to the extent that they exceed a specified amount (regulation 6); and

(*c*) to provide that where a person has paid rates or rent in advance for April 1983 (the month in which the statutory schemes come fully into operation) his housing benefit will be calculated on a daily basis (rather than by reference to complete weeks) and hence that individual days of rebate or allowance will not be lost by virtue of the introduction of the statutory schemes (regulation 7).

There are two drafting amendments (regulations 4(*a*) and 5(*c*)).

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