STATUTORY INSTRUMENTS

1982 No. 1124

HOUSING, ENGLAND AND WALES
HOUSING, SCOTLAND
RATING AND VALUATION

The Housing Benefits Regulations 1982

Laid before Parliament in draft

Made - - - -	*3rd August* 1982
Coming into operation in accordance with regulation 3	
for certain purposes	*22nd November* 1982
for certain other purposes	*1st April* 1983
for all other purposes	*4th 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 section 166(2) and (3) of the Social Security Act 1975(**b**) (as applied by section 45(1) of 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(**c**), hereby makes the following regulations of which, these being the first regulations under section 28(1)*(a)(b)* and *(c)* of the 1982 Act, a draft has been laid before Parliament and approved by resolution of each House of Parliament.

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.

(**a**) 1982 c. 24.
(**b**) 1975 c. 14.
(**c**) *See* section 36(1)*(a)* of the Social Security and Housing Benefits Act 1982.

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PART I

GENERAL

Citation

1. These regulations may be cited as the Housing Benefits Regulations 1982.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires,—

"the 1982 Act" means the Social Security and Housing Benefits Act 1982;

"advanced education" means full-time education by attendance at an educational establishment for the purposes of—

(a) a course in preparation for a degree, a diploma of higher education, a higher national diploma or a teaching qualification; or

(b) any other course which the appropriate authority considers to be a course of a standard above ordinary national diploma, general certificate of education (advanced level) or Scottish certificate of education (higher level);

"authority" means a rating, housing or local authority;

"beneficiary" means a person to whom a housing benefit has been granted;

"benefit period" means the period for which a housing benefit is granted;

"boarder on supplementary benefit" means a boarder within the meaning of regulation 9(9)*(b)* of the Requirements Regulations who is in receipt of, or has claimed and is entitled to, supplementary benefit;

"certificated case" means a case in which a certificate has been issued by the Secretary of State under regulation 9(1);

"crofter on supplementary benefit" means a tenant of a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1955(**a**) who is in receipt of, or who has claimed and is entitled to, supplementary benefit;

"Crown tenant" means a person who occupies a dwelling under a tenancy or licence where the interest of the landlord belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department, except (in the case of an interest belonging to Her Majesty in right of the Crown) where the interest is under the management of the Crown Estate Commissioners;

"dependent child" means a person who resides in the dwelling occupied by

(**a**) 1955 c. 21.

the eligible person and whose requirements are provided for, in whole or in part, by the eligible person or his partner, or wholly by means of maintenance payments payable to him, and who is either—

(a) under the age of sixteen, or

(b) aged sixteen or over but under the age of twenty and receiving full-time education at a school, college or other similar educational establishment, other than advanced education, or

(c) a person in respect of whom child benefit is paid or is payable under the Child Benefit Act 1975(**a**);

"eligible person", except as provided by regulation 24(2), means a person eligible for a housing benefit;

"eligible rates" means the amount of payments by way of rates which may be met by a rate rebate;

"eligible rent" means the amount of rent which may be met by a rent rebate or a rent allowance;

"fuel" includes gas and electricity;

"grant-aided student" means a person for the time being in receipt, in respect of his attending a course at an establishment in Great Britain, or undergoing education in Great Britain, of an award or grant of any of the classes specified in Part I of Schedule 1;

"housing association"—

(a) in relation to England and Wales has the meaning assigned by section 189(1) of the Housing Act 1957(**b**), and

(b) in relation to Scotland, has the meaning assigned by section 208(1) of the Housing (Scotland) Act 1966(**c**),

"industrial disablement pension" means any weekly payment of disablement pension under the Social Security Act 1975;

"long tenancy" means a tenancy granted for a term of years certain exceeding twenty-one years, whether or not the tenancy is, or may become, terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture (or, in Scotland, irritancy) or otherwise; and includes a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal unless it is a lease by sub-demise from one which is not a long tenancy;

"married couple" means a man and woman who are married to each other and are members of the same household;

"non-dependant" means, in relation to an eligible person,—

(a) a member of his household other than his partner or a dependent child of his or of his partner, or

(b) a person occupying his dwelling who makes payments to him which

(**a**) 1975 c. 61.
(**b**) 1957 c. 56; the definition of "housing association" was amended by section 130(1) of, and paragraph 6 of Schedule 13 to, the Housing Act 1974 (c. 44).
(**c**) 1966 c. 49; the definition of "housing association" was amended by section 130(1) of, and paragraph 15 of Schedule 13 to, the Housing Act 1974.

include a charge in respect of board, where that charge forms a substantial proportion of those payments,

but does not, except where sub-paragraph *(b)* of this definition applies, include a person paying rent under a tenancy or similar agreement;

"old cases allowance" means a weekly payment made under a scheme having effect by virtue of the Industrial Injuries and Diseases (Old Cases) Act 1975(**a**);

"owner" means—

(a) in relation to a dwelling in England and Wales, the person who, otherwise than as a mortgagee in possession, is for the time being entitled to dispose of the fee simple,

(b) in relation to a dwelling in Scotland, the proprietor under udal tenure or the proprietor of the dominium utile or the tenant's or the lessee's interest in a long tenancy, a kindly tenancy, a lease registered or registerable under the Registration of Leases (Scotland) Act 1857(**b**) or the Land Registration (Scotland) Act 1979(**c**) or a tenant-at-will as defined in section 20(8) of that Act of 1979;

"partner" means one of a married or an unmarried couple;

"pensionable age" means in the case of a man, 65 and in the case of a woman, 60;

"qualifying supplementary benefit" means supplementary pension or allowance under section 1 of the Supplementary Benefits Act 1976(**d**) which is payable in respect of a person who for the purposes of the Requirements Regulations is responsible for housing expenditure, except any such pension or allowance—

(a) which is payable in accordance with that Act as modified by virtue of section 4 of that Act for the period to which regulation 5(3)*(a)* of the Supplementary Benefit (Urgent Cases) Regulations 1981(**e**) applies,

(b) for the purposes of ascertaining which a requirement is applicable under regulation 19A of the Requirements Regulations;

"rates" has the same meaning as in section 35(1) of the 1982 Act except that in relation to Scotland it does not include domestic water rate within the meaning of section 39 of the Water (Scotland) Act 1980(**f**);

"rent" includes the following periodical sums payable in respect of a dwelling—

(a) payments in respect of a licence or permission to occupy a dwelling,

(b) payments for services performed or facilities (including the use of furniture) provided for, or rights made available to, the occupier of a dwelling, whether or not made under the same agreement as that under which the dwelling is occupied, but only in each case where the right to

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(**a**) 1975 c. 16.
(**b**) 1857 c. 26.
(**c**) 1979 c. 33.
(**d**) 1976 c. 71; this Act as amended (except sections 31, 32, 35 and 36 and Schedules 4 and 6 to 8) is set out in Part II of Schedule 2 to the Social Security Act 1980 (c. 30), and is further amended by the Social Security and Housing Benefits Act 1982, sections 38 and 48(5) and (6), Schedule 4, paragraphs 22 to 26, and Schedule 5.
(**e**) S.I. 1981/1529, amended by S.I. 1982/907, 914.
(**f**) 1980 c. 45.

occupation depends, or depended when the dwelling was first occupied by that occupier, upon agreement to make such payments,

(c) payments by way of mesne profits, or, in Scotland, violent profits,

(d) mooring charges payable for a houseboat,

(e) where a dwelling is a caravan or mobile home, payments in respect of the site on which it stands,

(f) a contribution payable by a person residing 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**) 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, and

(g) payments under a rental purchase agreement, that is to say an agreement under which a dwelling is being acquired through payments for a fixed period of sums which include a capital element attributable to the landlord's interest in the dwelling;

"Requirements Regulations" means the Supplementary Benefit (Requirements) Regulations 1980(**b**);

"shared ownership tenancy" means—

(a) in relation to England and Wales, a tenancy created by the grant of a lease at a premium calculated by reference to the value of the dwelling or the cost of providing it, and

(b) in relation to Scotland, an agreement by virtue of which the tenant of a dwelling of which he and the landlord are joint owners is the tenant in respect of the landlord's interest in the dwelling or by virtue of which the tenant has the right to purchase the dwelling or the whole or part of the landlord's interest therein;

"supplementary benefit" means supplementary pension or allowance under section 1 of the Supplementary Benefits Act 1976;

"supplementary benefit assessment unit" means an assessment unit as defined in regulation 2 of the Requirements Regulations;

"unmarried couple" means a man and a woman who are not married to each other but are living together as husband and wife as members of the same household;

"war disablement pension" means—

(a) any pension or other benefit such as is referred to in section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(**c**) which is awarded in respect of disablement due to service in the armed forces of the Crown,

(b) any pension or other benefit awarded in respect of disablement under the Personal Injuries (Emergency Provisions) Act 1939(**d**), the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(**e**) or the Polish Resettlement Act 1947(**f**), or

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(**a**) 1960 c. 58.
(**b**) S.I. 1980/1299, amended by S.I. 1980/1774, 1981/1016, 1196, 1197.
(**c**) 1977 c. 5.
(**d**) 1939 c 82.
(**e**) 1939 c. 83.
(**f**) 1947 c. 19.

(c) any pension or other benefit awarded in respect of disablement which is considered by the appropriate authority to be analogous to any pension or other benefit specified in either of sub-paragraphs *(a)* or *(b)*.

(2) In these regulations references to dwellings and payments in respect of dwellings shall be construed in accordance with section 28(3) and (4) of the 1982 Act.

(3) In these regulations a reference to housing benefit is to rate rebate, rent rebate or rent allowance as the circumstances may require, and a reference to paying any housing benefit includes, in the case of a rate rebate or a rent rebate, effecting a reduction in rates or rent to reflect the amount of the housing benefit granted.

(4) In these regulations a reference to the appropriate authority in respect of any dwelling is—

(a) in relation to a rate rebate, to the rating authority in whose area the dwelling is situated;

(b) in relation to a rent rebate, to the housing authority to whom rent is payable in respect of the dwelling; and

(c) in relation to a rent allowance, to the local authority in whose area the dwelling is situated;

except that where an authority arranges for any of its functions under these regulations to be discharged by another authority on its behalf, a reference to the appropriate authority is to the authority actually discharging that function.

(5) For the purposes of these regulations, the following shall be treated as included in a dwelling—

(a) any structure or space which is used for the purposes of the dwelling where either—

(i) the dwelling and the structure or space cannot be owned or rented separately, or

(ii) if they can be so owned or rented, the occupier of the dwelling has made or is making all reasonable efforts to terminate his liability in respect of the structure or space;

(b) where the dwelling is a caravan or a mobile home, such of the land on which it stands as is used for the purposes of the dwelling;

(c) where the dwelling is a houseboat, the land used for the purposes of mooring it.

(6) Where any sum which is payable or calculated otherwise than as a weekly amount falls to be taken into account for the purposes of these regulations it shall be converted into the weekly amount which represents it and that amount shall be treated as the relevant amount for those purposes; and accordingly in these regulations references to "weekly income" are to the amount which represents income as so converted, references to "weekly eligible rates" are, except where regulation 21(5) or (6) applies, to the amount which represents eligible rates as so converted and references to "weekly eligible rent" are, except where regulation 21(5) or (6) applies, to the amount which represents the eligible rent as so converted.

(7) In these regulations, unless the context otherwise requires, a reference—

(a) to a numbered regulation or Schedule is to the regulation in or Schedule to these regulations bearing that number;

(b) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;

(c) in a paragraph to a lettered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter.

Commencement

3.—(1) The provisions of regulations 1 to 5, 9 to 11, 15 to 18, 20, 21, 25(1)*(b)*, 26(5) and (6), 27(2), 28 to 32 and 34 to 50 and of Schedules 1, 3, 4 and 5—

(a) shall come into operation on 22nd November 1982—

(i) so far as they relate to rate rebate or rent rebate, and

(ii) in their application to any person in respect of whom the conditions specified in paragraph (3) are for the time being fulfilled and his partner;

(b) shall come into operation on 1st April 1983, to the extent that they are not then in operation and

(i) so far as they relate to rate rebate, and

(ii) in their application to a person and his partner where that person is not a tenant of a housing authority;

(c) shall come into operation for all other purposes on 4th April 1983.

(2) The provisions of these regulations which are not specified in paragraph (1) shall come into operation—

(a) so far as they relate to rate rebate and in their application to a person and his partner where that person is not a tenant of a housing authority, on 1st April 1983; and

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

(3) The conditions referred to in paragraph (1)*(b)* in respect of a person are that—

(a) he or his partner is a tenant of a housing authority and that if he is a joint tenant he is a joint tenant only with his partner;

(b) he is entitled to qualifying supplementary benefit;

(c) his dwelling is occupied as a home only by himself or persons who are members of his supplementary benefit assessment unit;

(d) the amount of qualifying supplementary benefit to which he is entitled exceeds his housing requirements; and

(e) he is not a person to whom section 8 of the Supplementary Benefits Act 1976 (persons affected by trade dispute) or section 9(1) of that Act (return to work after trade dispute) applies.

(4) The reference in paragraph (3)*(d)* to a person's housing requirements is to housing requirements assessed under the following provisions of the Requirements Regulations as though they applied to that person—

(a) regulation 15;

(b) regulation 19*(a)*;

(c) regulation 19*(b)* in so far as it relates to sewerage and allied environmental services in Scotland;

(d) regulation 19*(e)*;

(e) regulation 19*(g)* in so far as it relates to the provisions set out in sub-paragraphs *(b)* to *(d)* above.

Statutory rebate and allowance schemes and local schemes

4.—(1) The provisions of these regulations shall have effect, for the purposes of section 28 of the 1982 Act, as the statutory rate rebate scheme, the statutory rent rebate scheme and the statutory rent allowance scheme.

(2) For the purposes of section 30 of the 1982 Act (local schemes) the power to modify the statutory rate rebate scheme, the statutory rent rebate scheme and the statutory rent allowance scheme shall be subject to the exception that none of those schemes may be modified except as to—

(a) the amounts which may be disregarded for the purposes of ascertaining the weekly income of an eligible person or of any partner of his (regulation 14(1)*(b)* and Schedule 2);

(b) the calculation by means of which the amount of an eligible person's housing benefit is ascertained (regulation 19).

PART II

ELIGIBILITY

Provision against multiple benefits

5.—(1) Subject to paragraph (2), no person shall be eligible for housing benefit at any one time in respect of more than one dwelling.

(2) Nothing in paragraph (1) shall prevent a person from being eligible for housing benefit in respect of two (but no more than two) dwellings—

(a) where that person has left, and remains absent from, a previous home through fear of domestic violence and the appropriate authority considers that it is reasonable that housing benefit should be paid in respect of both the previous home and the new home; or

(b) for a period not exceeding four weeks where the appropriate authority considers that that person's liability to make payments in respect of two homes is unavoidable.

Eligibility for rate rebate

6.—(1) Subject to regulations 9(4) and 11(2) and to paragraph (2), any of the following persons is eligible for a rate rebate in respect of a dwelling which he occupies as his home:

(a) a person who is liable to make payments by way of rates in respect of the dwelling;

(b) a person who, though not liable to make such payments, makes them as though he were so liable and either—

(i) is the partner of the person liable to make such payments, or

(ii) is some other person whom the rating authority considers it reasonable to treat as eligible for a rate rebate.

(2) Notwithstanding paragraph (1), a boarder on supplementary benefit is not eligible for a rate rebate.

Eligibility for rent rebate

7.—(1) Subject to regulations 9(4) and 11(2) and to paragraphs (2) and (3), any of the following persons is eligible for a rent rebate in respect of a dwelling which he occupies as his home:

(a) a person who is liable to make payments to a housing authority, otherwise than by way of rates, in respect of the dwelling;

(b) a person who, though not liable to make such payments to a housing authority, makes them as though he were so liable and either—

(i) is the partner of the person liable to make such payments, or

(ii) is some other person whom the housing authority considers it reasonable to treat as eligible for a rent rebate.

(2) Notwithstanding paragraph (1), a person is not eligible for a rent rebate in respect of a dwelling which, or such part of a dwelling as, he occupies as being the owner or under a long tenancy, other than a shared ownership tenancy granted by a housing authority.

(3) Notwithstanding paragraph (1), neither a boarder on supplementary benefit nor a crofter on supplementary benefit is eligible for a rent rebate.

Eligibility for rent allowance

8.—(1) Subject to regulations 9(4) and 11(2) and to paragraphs (2) and (3), any of the following persons is eligible for a rent allowance in respect of a dwelling which he occupies as his home:

(a) a person who is liable to make, otherwise than to a housing authority, payments otherwise than by way of rates, in respect of the dwelling;

(b) a person who, though not liable to make such payments, makes them as though he were so liable and either—

(i) is the partner of the person liable to make such payments, or

(ii) is some other person whom the local authority considers it reasonable to treat as eligible for a rent allowance.

(2) Notwithstanding paragraph (1), a person is not eligible for a rent allowance in respect of a dwelling which, or such part of a dwelling as, he occupies—

(a) as a Crown tenant;

(b) as being the owner;

(c) under a long tenancy, other than a shared ownership tenancy granted by a housing association; or

(d) under a co-ownership scheme, that is to say a scheme under which the dwelling is let by a housing association and the tenant, or his personal representative, will, under the terms of the tenancy agreement or of the agreement under which he became a member of the association, be entitled, on his ceasing to be a member and subject to any conditions stated in either agreement, to a sum calculated by reference directly or indirectly to the value of the dwelling.

(3) Notwithstanding paragraph (1), neither a boarder on supplementary benefit nor a crofter on supplementary benefit is eligible for a rent allowance.

Persons on supplementary benefit

9.—(1) Where a person, other than an ineligible person, has claimed and is entitled to qualifying supplementary benefit, the Secretary of State shall issue and give or send to each appropriate authority a certificate in respect of that person stating the date on which such benefit became payable; and upon receipt of that certificate the appropriate authority shall, subject to paragraph (5), treat that person as a person eligible for housing benefit in respect of the dwelling which he occupies as his home.

(2) Where a person in respect of whom a certificate is issued is not the only occupier of his dwelling who is eligible for a housing benefit, the Secretary of State shall—

(a) when giving or sending a certificate to a rating authority for the purposes of a rate rebate, state the proportion of rates for which that person is to be regarded as responsible;

(b) when giving or sending a certificate to a housing authority or a local authority for the purposes of a rent rebate or rent allowance, state the proportion of rent for which that person is to be regarded as responsible.

(3) The Secretary of State shall cancel a certificate issued under paragraph (1) where the person in respect of whom it was issued is not or is no longer entitled to qualifying supplementary benefit, and shall in that case give or send to the appropriate authority a notice in writing to the effect that the certificate is cancelled, giving the date of such cancellation.

(4) Where a certificate has been issued under paragraph (1) in respect of a person for the purposes of a housing benefit and that certificate has not been cancelled under paragraph (3), no other member of that person's supplementary benefit assessment unit shall be eligible for that housing benefit, except as provided by paragraph (5).

(5) Where the person in respect of whom a certificate is issued is not liable to make particular payments by way of rates or rent, and does not make such payments as though he were so liable, but another member of his supplementary benefit assessment unit is so liable, that other member, and not the person in respect of whom the certificate was issued, shall be treated as eligible for a housing benefit so far as it relates to such payments.

(6) In paragraph (1), "ineligible person" means a person who occupies his dwelling as being—

(a) in relation to a rate rebate, a person who would not be eligible under regulation 6(2);

(b) in relation to a rent rebate, a person who would not be eligible under regulation 7(2) or (3);

(c) in relation to a rent allowance, a person who would not be eligible under regulation 8(2) or (3).

Persons treated as occupying a dwelling as their home

10. Where a person—

(a) occupies a dwelling of any description, including hostel accommodation; and

(b) would not otherwise be treated as occupying it as his home by reason only of the short duration of his occupancy,

that person shall be treated for the purposes of these regulations as though he occupied that dwelling as his home, subject, in cases other than certificated cases, to the condition that he shall have occupied it for a continuous period of fourteen days.

Joint occupiers

11.—(1) Subject to paragraph (2), a person eligible for a housing benefit under regulations 5 and 6, 7 or 8 is eligible whether he is the sole occupier of his dwelling or a joint occupier of his dwelling.

(2) Where a married or an unmarried couple occupy a dwelling, one only of that couple is eligible for housing benefit, being such one as the appropriate authority may determine; and any such determination shall be made in a certificated case in accordance with regulation 9.

PART III

AMOUNT OF HOUSING BENEFIT

Factors governing amount of housing benefit

12. Except where regulation 21 (those on qualifying supplementary benefit) applies, the housing benefit to which an eligible person is entitled is a weekly amount calculated in accordance with regulation 19 by reference to—

(a) an amount to be allowed for the needs of that person and of any partner of his or dependent child of his or of his partner (the "needs allowance" set out in regulation 13);

(b) the weekly income of that person and of any such partner (ascertained under regulation 14 and Schedule 2);

(c) in the case of a rate rebate, the amount of the eligible rates (ascertained under regulations 15 and 17);

(d) in the case of a rent rebate or rent allowance, the amount of the eligible rent (ascertained under regulations 16 and 17 and Schedules 1 and 3);

(e) amounts to be deducted for non-dependants (under regulation 18); and

(f) minimum and maximum amounts of rebate or allowance (set out in regulation 20).

Needs allowance

13.—(1) Except in a case to which paragraph (2) applies, and subject to the increases provided for in paragraph (3), the needs allowance for each week is—

(a) for a single person who has no dependent child —£41.40

(b) for a married or unmarried couple —£61.00

(c) for a single person who has a dependent child —£61.00.

(2) Subject to the increases provided for in paragraph (3), the needs allowance for each week is—

(a) for a single handicapped person who has no dependent child —£46.15

(b) for a married or unmarried couple one of whom is a handicapped person —£65.75

(c) for a single handicapped person who has a dependent child —£65.75

(d) for a married or unmarried couple both of whom are handicapped persons —£68.00.

(3) The needs allowance shall be increased—

(a) in every case referred to in paragraphs (1) and (2) where the eligible person or his partner is, or both of them are, of pensionable age, by 75p;

(b) in the cases referred to in paragraphs (1)*(b)* and *(c)*, and (2)*(b)*, *(c)* and *(d)*, by £11.40 for each dependent child.

(4) In paragraph (2), "handicapped person" means—

(a) in relation to England and Wales, a person to whom section 29(1) of the National Assistance Act 1948(**a**) (welfare arrangements for handicapped persons) applies; and

(b) in relation to Scotland, a person in need under section 12 of the Social Work (Scotland) Act 1968(**b**).

Income

14.—(1) The weekly income of an eligible person and any partner of his shall be ascertained for the purposes of these regulations by—

(a) assessing the amount which is likely to be the income of that person and any such partner during the benefit period in accordance with paragraphs (2) to (4); and

(b) disregarding any item mentioned in paragraphs 1 to 18 of Schedule 2 to the extent allowed by paragraph 19 of that Schedule; and

(c) adding any maintenance payment made to any dependent child of that person or of his partner.

(**a**) 1948 c. 29; section 29(1) is amended in a way not relevant to these regulations.
(**b**) 1968 c. 49.

(2) In so far as a person's income consists of earnings from a gainful occupation, the amount which is likely to be the income shall be estimated by reference to the average of his earnings from that occupation over a period ending with the last occasion before his claim on which his earnings were paid and being a period—

(a) of five weeks, if he is paid weekly;

(b) of two months, if he is paid monthly,

but in any particular case regard may be had to the average of a person's earnings from a gainful occupation over such other period or periods as may be appropriate in order that the amount which is likely to be his income over the benefit period may be properly assessed.

(3) In so far as a person's earnings from any gainful occupation comprise salary, wages or fees related to a fixed period, the gross amount of his salary, wages or fees shall be taken into account; and in so far as a person's earnings from any gainful occupation do not comprise salary, wages or fees related to a fixed period, the net profit derived from that occupation shall be taken into account.

(4) In so far as a person's income does not consist of earnings from a gainful occupation, its weekly amount shall be calculated or estimated on such basis as appears to the appropriate authority to be reasonable in the circumstances of the particular case.

(5) In paragraph (3), "net profit" means profit after deduction of expenses but without deduction of income tax or of contributions payable under the Social Security Act 1975.

Eligible rates

15.—(1) This regulation is subject to regulation 17 (unsuitable accommodation).

(2) The amount of payments by way of rates which may be met by a rate rebate ("eligible rates") for an eligible person in respect of a dwelling is such amount as he is liable to pay during the benefit period less any proportion of that amount which, by virtue of paragraph (3), is or could be the eligible rates of another person other than a non-dependant in relation to that period.

(3) Where a person is liable to make paymemts by way of rates otherwise than to the rating authority, in respect of a dwelling comprising part only of a rateable unit, the eligible rates for that person are such proportion of the rates payable in respect of the rateable unit during the benefit period as is referable to that dwelling.

(4) Where a rateable unit consists partly of residential accommodation and partly of other accommodation, only such proportion of the rates payable for that rateable unit as is referable to the residential accommodation may be met by a rate rebate, and in the application of this paragraph to Scotland the proportion so referable shall be such as may be determined by an apportionment under section 45(1) of the Water (Scotland) Act 1980(**a**).

(**a**) 1980 c. 45.

(5) Where, under regulations 6 and 11, more than one person is eligible for a rate rebate in respect of a dwelling, the rates payable in respect of that dwelling shall be apportioned for the purposes of calculating the eligible rates for each such person having regard to all the circumstances, in particular the number of such persons and the proportion of rates paid by each such person.

(6) Where rates are collected together with rent payable to a housing authority and the rating authority or housing authority, whether for administrative convenience or for other reasons, arranges for the year's rates to be paid irregularly, or so that no rates are collected in certain periods or so that rates for different periods in the year are of different amounts, calculations for the purposes of ascertaining weekly eligible rates shall, except in a certificated case, be made by reference to the rates which would have been paid if those arrangements had not been made.

(7) Where a person who is not liable to make payments by way of rates is eligible for a rate rebate by reason that he makes such payments as though he were so liable he shall be treated for the purposes of this regulation as though he were so liable.

(8) A payment by way of rates made before the beginning of a benefit period shall, to the extent that it is paid in respect of any complete week during that period, be treated as being liable to be made within that period.

(9) In this regulation "rateable unit" means—

(a) in relation to England and Wales, a hereditament as defined in section 115(1) of the General Rate Act 1967(**a**);

(b) in relation to Scotland, lands and heritages entered on the valuation roll.

Eligible rent

16.—(1) This regulation is subject to regulation 17 (unsuitable accommodation).

(2) Subject to the following paragraphs of this regulation, the amount of rent which may be met by a rent rebate or a rent allowance ("eligible rent") for an eligible person in respect of a dwelling is such amount as he is liable to pay during the benefit period, less—

(a) where the rent includes an amount in respect of:

(i) rates,

(ii) charges for water, sewerage or allied environmental services, or

(iii) the provision of board,

the amount fairly attributable to such of those items as are included;

(b) where the rent includes a charge for fuel for:

(i) heating (other than hot water),

(ii) hot water,

(iii) lighting, or

(a) 1967 c. 9.

(iv) cooking,

in respect of the dwelling itself (not including any areas of access to the dwelling or other communal areas), an amount, ascertained in accordance with paragraphs 2 to 6 of Schedule 3, in respect of such charges as are included;

(c) subject to paragraph (3), where the rent includes a charge for services performed or facilities provided for, or rights made available to, the eligible person and no deduction falls to be made in respect of it under sub-paragraph *(a)* or *(b)*, an amount in respect of such services, facilities or rights for which under paragraphs 7 to 9 of Schedule 3 a deduction is to be made, such amount to be ascertained in accordance with those paragraphs of that Schedule;

(d) where part of the dwelling is occupied by another person, other than a non-dependant, in consideration of a rent payable to the eligible person, an amount ascertained in accordance with paragraphs 10 and 11 of Schedule 3; and

(e) where the eligible person is a grant-aided student the following amount:

(i) in the case of a student attending a course at the University of London or at an establishment within the area comprising the City of London and the Metropolitan Police District, £18.65, and

(ii) in any other case, £14.10.

(3) No deduction shall be made under paragraph (2)*(c)* in respect of payments for the use of furniture.

(4) The deduction referred to in paragraph (2)*(e)* shall be made, as regards a student with an award or grant of a class specified in a paragraph in column 1 of Part II of Schedule 1, only in respect of such period as is specified in the corresponding paragraph in column 2 of that Part.

(5) Where a rent is registered in respect of a dwelling under Part IV or V of the Rent Act 1977(**a**) or Part IV or VII of the Rent (Scotland) Act 1971(**b**) the eligible rent shall not exceed the rent so registered.

(6) Where the rent consists of a contribution payable to a housing association for accommodation in an almshouse, the eligible rent shall not exceed the maximum contribution which the Charity Commissioners have from time to time authorised or approved for that association as a contribution towards the costs of maintaining that association's almshouses and essential services in them.

(7) Where, under regulations 7, 8 and 11, more than one person is eligible for a rent rebate or rent allowance in respect of a dwelling, the rent and other items referred to in paragraph (2), other than that referred to in sub-paragraph *(e)* thereof, 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; and the deduction referred to in paragraph (2)*(e)* shall be made in respect of each eligible person who is a grant-aided student.

(**a**) 1977 c. 42.
(**b**) 1971 c. 28.

(8) Where a housing authority, whether for administrative convenience or for other reasons, arranges for the year's rent to be paid irregularly, or so that no rent is payable for or collected in certain periods, or so that rent for different periods in the year is of different amounts, calculations for the purposes of ascertaining weekly eligible rent shall, except in a certificated case, be made by reference to the rent which would have been paid if those arrangements had not been made.

(9) Where a person who is not liable to make payments of rent is eligible for a rent rebate or a rent allowance by reason that he makes such payments as though he were so liable, he shall be treated for the purposes of this regulation as though he were so liable.

(10) A payment of rent made before the beginning of a benefit period shall, to the extent that it is paid in respect of any complete week during that period, be treated as being liable to be made within that period.

Unsuitable accommodation

17.—(1) Subject to paragraphs (3) and (4), where the appropriate authority considers either—

(a) that an eligible person occupies a dwelling larger than is reasonably required by him and others who also occupy that dwelling, including any non-dependants of his and any person paying rent to him; or

(b) that, by reason of the location of the eligible person's dwelling—

(i) the rates, in the case of a rate rebate, payable for his dwelling are unreasonably high by comparison with the rates payable in respect of similar dwellings occupied under comparable terms in that authority's area, or

(ii) that the rent, in the case of a rent rebate, so payable is unreasonably high by comparison with the rent payable in respect of such similar dwellings so occupied; or

(c) that the rent, in the case of a rent allowance, payable for an eligible person's dwelling is unreasonably high by comparison with the rent payable in respect of similar dwellings occupied under comparable terms in that authority's area,

that authority may treat the eligible rates or, as the case may be, eligible rent as being reduced by such amount as it considers appropriate in the circumstances and make the calculations under these regulations by reference to the eligible rates or eligible rent as so reduced.

(2) No reduction shall be made under this regulation where it is not reasonable to expect the eligible person to seek alternative cheaper accommodation, having regard to—

(a) the availability of suitable alternative accommodation; and

(b) the circumstances of the occupiers of the dwelling including in particular their age, state of health and length of residence in the dwelling, the eligible person's prospects of retaining or obtaining employment and the effect on the education of any dependent children if a change in accommodation were to result in a change of school.

(3) Without prejudice to the operation of paragraph (2), where the appropriate authority is satisfied that the eligible person or a member of his household was able to meet the financial commitments for his dwelling when they were entered into no reduction shall be made under this regulation during the first six months of the eligible person's first benefit period.

Deductions for non-dependants

18.—(1) Subject to paragraphs (3) to (6) the deductions to be made in the calculation of rate rebate in respect of non-dependants are for each week—

(a) for each person who is neither a relevant student nor in receipt of supplementary benefit:

(i) where he is aged 18 or more but under 21, £1.60,

(ii) where he is aged 21 or more but under pensionable age, £1.85,

(iii) where he is of pensionable age, £0.90;

(b) for each person aged 18 or more in receipt of supplementary benefit, £0.90.

(2) Subject to paragraphs (3) to (6), the deductions to be made in the calculation of rent rebate and rent allowance in respect of non-dependants are for each week—

(a) for each person who is neither a relevant student nor in receipt of supplementary benefit:

(i) where he is aged 18 or more but under 21, £3.95,

(ii) where he is aged 21 or more but under pensionable age, £4.70,

(iii) where he is of pensionable age, £2.20;

(b) for each person aged 18 or more in receipt of supplementary benefit, £2.20.

(3) For the purposes of this regulation a married couple or an unmarried couple shall be treated as one person, and if deductions of different amounts would, but for this paragraph, fall to be made in respect of each one of that couple the deduction to be made shall be the lesser of those amounts; and if a deduction would fall to be made in respect of one of that couple, but not the other, then that deduction shall be made.

(4) Where more than one person is eligible for a housing benefit in respect of a dwelling and a person is a non-dependant of more than one such eligible person, the deduction for that non-dependant shall be made only in respect of one eligible person, being such one as the appropriate authority may determine.

(5) Where in a certificated case the appropriate authority is notified by the Secretary of State that for the purposes of determining entitlement to qualifying supplementary benefit—

(a) the eligible person or his partner is blind, no deduction shall be made in respect of any non-dependant of that person;

(b) a non-dependant of the eligible person is giving residential assistance in respect of which an amount is applicable under paragraph 14(1) of

column (2) of Schedule 3 to the Requirements Regulations (additional requirements, domestic assistance) or would be applicable—

(i) but for the application of regulation 13(3) of those regulations (trade dispute), or

(ii) were it not that the assistance given by the non-dependant is provided for by a local authority,

no deduction shall be made in respect of that non-dependant.

(6) No deduction shall be made in respect of a non-dependant who is a member of the eligible person's household but whose normal home is considered by the appropriate authority to be elsewhere than the eligible person's dwelling.

(7) In paragraphs (1) and (2) "relevant student" means a person who is receiving full-time education at an educational establishment and whose requirements are provided for, in whole or in part, by the eligible person.

Calculation of benefit

19.—(1) Subject to regulations 20 to 23 and Schedule 4, the amount of a housing benefit to which an eligible person is entitled for each week is ascertained by means of the calculation set out in this regulation.

(2) There shall be taken a figure of:

(a) in the case of a rate rebate, 60% of the weekly eligible rates;

(b) in the case of a rent rebate or rent allowance, 60% of the weekly eligible rent,

and deducted from that figure such amounts in respect of non-dependants as are required to be deducted under regulation 18; and the figure resulting from this calculation (whether positive or negative) is referred to in this regulation as £x.

(3) The weekly income of the eligible person and any partner of his (ascertained under regulation 14) shall be compared with the needs allowance applicable to his case (in this regulation referred to as the "relevant needs allowance").

(4) If the weekly income of the eligible person and any partner of his is equal to the relevant needs allowance, the amount of rebate or allowance to which he is entitled each week is £x.

(5) If the weekly income of the eligible person and any partner of his exceeds the relevant needs allowance, the amount of rebate or allowance to which he is entitled each week is—

(a) in the case of a rate rebate, £x minus 7% of the amount by which that weekly income exceeds the relevant needs allowance;

(b) in the case of a rent rebate or rent allowance, £x minus 21% of the amount by which that weekly income exceeds the relevant needs allowance.

(6) If the weekly income of the eligible person and any partner of his is less

than the relevant needs allowance, the amount of rebate or allowance to which he is entitled each week is—

(a) where either the eligible person or his partner is of pensionable age:

(i) in the case of a rate rebate, £x plus 20% of the amount by which that weekly income is less than the relevant needs allowance,

(ii) in the case of a rent rebate or rent allowance, £x plus 50% of the amount by which that weekly income is less than the relevant needs allowance;

(b) where neither the eligible person nor his partner is of pensionable age:

(i) in the case of a rate rebate, £x plus 8% of the amount by which that weekly income is less than the relevant needs allowance,

(ii) in the case of a rent rebate or rent allowance, £x plus 25% of the amount by which that weekly income is less than the relevant needs allowance.

(7) Amounts of rebate or allowance shall be calculated to the nearest penny by disregarding an amount of less than half a penny and by treating an amount of half a penny or more as a whole penny.

(8) In a case to which Schedule 4 (areas of high rent) applies this regulation shall have effect subject to the modifications specified in that Schedule.

Minimum and maximum amounts of benefit

20.—(1) If the amount of rate rebate calculated in accordance with the other provisions of these regulations would be less than 10 pence per week it shall not be granted, and if the amount of rent rebate or rent allowance so calculated would be less than 20 pence per week it shall not be granted.

(2) Subject to regulation 22, if the amount of an eligible person's housing benefit calculated in accordance with the other provisions of these regulations would exceed the relevant amount, any excess over the relevant amount shall not be granted.

(3) In paragraph (2), "relevant amount" means—

(a) in the case of a rate rebate, an amount equal to the eligible person's eligible rates less any deductions required to be made under regulation 18 in respect of non-dependants;

(b) in the case of a rent rebate or rent allowance, an amount equal to the eligible person's eligible rent less any such deductions.

Amount of benefit for certain persons in receipt of supplementary benefit

21.—(1) Where the appropriate authority is furnished with a certificate issued by the Secretary of State under regulation 9(1) (entitlement to qualifying supplementary benefit) in respect of a person, then, notwithstanding anything in regulations 12, 13, 14, or 19,

(a) the appropriate authority shall assess the amount of housing benefit to which that person is entitled each week as being, subject to paragraphs (2) to (4), an amount equal—

(i) in the case of a rate rebate to his weekly eligible rates,

(ii) in the case of a rent rebate or rent allowance to his weekly eligible rent.

less, in each case, any deductions for non-dependants as provided for by regulation 18; and

(b) where that person is not the only occupier of the dwelling and the certificate states the proportion of rates or, as the case may be, rent for which he is to be regarded as responsible, the appropriate authority shall, for the purposes only of calculating the eligible rates of that person, or his eligible rent, apportion the rates or rent for the dwelling in accordance with that certificate;

and the following provisions of this regulation shall have effect.

(2) Where a certificate has been issued in respect of a person for the purposes of both a rate rebate and a rent rebate or a rent allowance, and for the purposes of calculating his rent rebate or rent allowance—

(a) a deduction falls to be made under regulation 16(2)*(d)* (rent payable to the eligible person); and

(b) that deduction exceeds the amount which would be his eligible rent apart from that deduction,

his rate rebate shall be reduced by an amount equal to that excess.

(3) Where a certificate has been issued in respect of an eligible person for the purposes of a rate rebate but not for the purposes of a rent rebate or a rent allowance and that eligible person receives rent from another person, other than a non-dependant, occupying his dwelling, the amount of that eligible person's rate rebate shall be reduced by the amount of that rent which shall be calculated in accordance with paragraphs 10 and 11 of Schedule 3 as though it were being calculated for the purposes of a rent rebate or a rent allowance.

(4) The amount of rent allowance to which a person is entitled shall be reduced by the amount of any single payment made to him under regulation 21A of the Supplementary Benefit (Single Payments) Regulations 1981(**a**).

(5) Where rent payable to a housing authority is, or rates collected with rent so payable are, collected in less than 52 weeks in any year, for the purposes of assessing a rate rebate or a rent rebate under paragraph (1) an authority shall—

(a) not grant a rebate in respect of a week in which no rates are or no rent is to be collected but shall, when granting a rebate in respect of any other week, grant it in respect of the rates or rent actually payable in that week;

(b) when making any deductions for non-dependants, make an adjustment so that the amount deducted for each week in which rates are or rent is collected is the appropriate amount specified in regulation 18 multiplied by the number of Mondays in the year and divided by the number of weeks in which rates are or rent is collected.

(6) Where the benefit period is less than seven days calculations shall be made on a daily basis so that, in particular,—

(**a**) S.I. 1981/1528, amended by S.I. 1982/914.

(a) any payment made outside the benefit period but in respect of days within that period shall be treated, to the extent that it is in respect of days within the benefit period as being liable to be paid during that period; and

(b) any payment made within the benefit period but in respect of days outside that period shall be treated, to the extent that it is in respect of days outside that period, as not being liable to be paid during that period.

Additional amount of benefit in exceptional cases

22. Except in a certificated case, an authority may, if it considers an eligible person's circumstances are exceptional, grant to him an amount of a housing benefit additional to that to which he is entitled under the other provisions of these regulations.

Disentitlement to rent allowance and rate rebate

23.—(1) Except in a certificated case, a person shall not be entitled to rent allowance where—

(a) he resides with the person to whom he is liable to pay rent in respect of the dwelling; or

(b) the person to whom he is liable to pay rent in respect of the dwelling is a member of his family,

and in either case it appears to the local authority that the tenancy or other agreement was created in order to take advantage of the rent allowance scheme.

(2) Except in a certificated case, a person who makes or is liable to make payments by way of rates otherwise than to a rating authority shall not be entitled to a rate rebate where—

(a) he resides with the person to whom he is liable to make payments by way of rates in respect of the dwelling; or

(b) the person to whom he is liable to make payments by way of rates in respect of the dwelling is a member of his family,

and in either case it appears to the rating authority that the tenancy or other agreement, in so far as it relates to payments by way of rates, was created in order to take advantage of the rate rebate scheme.

Benefit by reference to another person's income

24.—(1) If a non-dependant of the eligible person appears to the appropriate authority to have a higher income than the eligible person, and the appropriate authority has grounds for considering that in the special circumstances of the case it would be reasonable to make its calculations under these regulations by reference to the income of that non-dependant and not that of the eligible person, that authority may, except in a certificated case, determine to make its calculations as though that non-dependant were the eligible person and grant such housing benefit (if any) as ought to be granted on that basis.

(2) Where an authority exercises the power conferred by paragraph (1) in relation to a housing benefit, the eligible person shall be treated as a non-

dependant for the purposes of calculating that benefit and references in these regulations to the "eligible person" shall, except in this regulation, regulation 19(1) and paragraphs 5 and 6 of Schedule 4, be treated as references to the person treated as such under paragraph (1).

PART IV

BENEFIT PERIOD

Beginning of benefit period

25.—(1) Subject to paragraphs (2) to (6), a person's benefit period shall begin—

(a) except in a certificated case, on the date on which his claim for that benefit was received by the appropriate authority;

(b) in a certificated case, on the date specified in the certificate as being that on which the qualifying supplementary benefit in respect of which it was issued became payable.

(2) The appropriate authority may, except in a certificated case,—

(a) having regard to the day of the week upon which the eligible person is liable to make payments in respect of which the benefit is granted, allow his benefit period to begin on a date which is six days or less earlier than the date of receipt of the claim; or

(b) if in its opinion the circumstances are exceptional, allow the benefit period to begin on a date which is twelve months or less earlier than the date of receipt of the claim.

(3) Where the appropriate authority exercises its powers under paragraph (2) in relation to a person, the amount of housing benefit granted in respect of any period before that person's claim was received shall not exceed the amount to which he would have been entitled if his claim had been received on the date from which the benefit period is allowed to begin.

(4) Where—

(a) a person or his partner has made a claim in accordance with regulation 3 of the Supplementary Benefit (Claims and Payments) Regulations 1981(**a**) for qualifying supplementary benefit;

(b) that person or his partner has received notice of a determination that there is no entitlement to qualifying supplementary benefit otherwise than by virtue of regulation 9(1)*(b)* or *(c)* of the Supplementary Benefit (Conditions of Entitlement) Regulations 1981(**b**) (persons who have been engaged in remunerative full-time work treated as still so engaged for a limited period); and

(c) that person or his partner has made a claim for housing benefit within one month of receipt of that notice,

the benefit period shall begin on the date of claim for qualifying supplementary

(**a**) S.I. 1981/1525, amended by S.I. 1982/907.
(**b**) S.I. 1981/1526, amended by S.I. 1982/907.

benefit, and paragraphs (2) and (3) shall apply as though for the references to date of receipt of the claim for housing benefit there were substituted references to the date of claim for qualifying supplementary benefit.

(5) Where a person to whom a housing benefit has been granted makes a further claim for the same benefit within one month after the expiry or termination of his current benefit period, the benefit period, as regards any grant of that housing benefit made following that claim, shall begin immediately after the end of the former period.

(6) Where a person is not eligible for a housing benefit on the date of his claim, the references in this regulation to the date of receipt of his claim and in paragraph (4) to the date of claim shall be treated as references to the date thereafter on which he becomes eligible for that benefit, except that where a person becomes eligible for a housing benefit on fulfilment of the condition specified in regulation 10 (fourteen days occupancy) he shall be treated as having been so eligible on the date of receipt of his claim for that benefit.

End of benefit period

26.—(1) Subject to paragraph (5) and to regulations 30(1)*(a)* and 31(1)*(a)*, a person's benefit period shall end on such date as may be determined by the appropriate authority in accordance with paragraphs (2) and (3).

(2) Where at the time of his claim a person is of pensionable age or in receipt of any of the benefits specified in paragraph (4) in the circumstances, if any, there specified in relation to that benefit, his benefit period shall end—

(a) if the date of notification falls during October or November in any year, not later than fourteen months after that date, and

(b) if the date of notification falls during any other month, not later than twelve months after that date.

(3) In a case not within paragraph (2), the benefit period shall end—

(a) if the date of notification falls during March or April in any year, not later than nine months after that date; and

(b) if the date of notification falls during any other month, not later than seven months after that date.

(4) The benefits referred to in paragraph (2) are—

(a) war disablement pension;

(b) industrial disablement pension;

(c) invalidity pension or allowance under the Social Security Act 1975;

(d) old cases allowance;

(e) any weekly payments under section 76 of the Social Security Act 1975 (benefit in respect of certain industrial diseases and injuries);

(f) widow's pension under section 26 of the Social Security Act 1975, but only where the claimant is unemployed and in the opinion of the appropriate authority her circumstances (including her lack of employment) are unlikely to change within twelve months of the date of the claim.

(5) Notwithstanding the preceding paragraphs of this regulation, in a certificated case a person's benefit period shall end on such date as is notified to the appropriate authority by the Secretary of State as being the date on which the certificate issued under regulation 9(1) is cancelled on the grounds that that person is not, or is no longer, entitled to qualifying supplementary benefit.

(6) The appropriate authority shall invite a person to make a further claim for housing benefit—

(a) in a certificated case where his benefit period ends under paragraph (5);

(b) in any other case in which the benefit period exceeds four months, within two months before that period is due to expire.

(7) In paragraphs (2) and (3) "date of notification" means, in relation to the grant of a housing benefit to a person, the date on which he was notified by the appropriate authority of the determination to grant him that benefit.

PART V

CLAIMS AND CHANGES OF CIRCUMSTANCES

Claims

27.—(1) Except as provided by paragraph (2) a claim for a housing benefit in respect of a dwelling shall be made in writing to the appropriate authority.

(2) Where a certificate has been issued under regulation 9(1) and given or sent to an authority the person in respect of whom it has been issued shall be treated as having made a claim to that authority for a housing benefit and references in this Part of these regulations to claim and claimant shall be read accordingly.

(3) A person to whom a housing benefit has been granted may make a claim of the appropriate authority for a further grant of that benefit to take effect immediately after the end of his current benefit period and, subject to regulations 25(5) and 28(8), the provisions of these regulations shall apply on such a claim as they apply on a first claim.

Procedure following a claim

28.—(1) When the appropriate authority receives a claim for a housing benefit it shall, subject to paragraph (4),—

(a) except in a certificated case, determine whether the claimant is eligible for that benefit and, if so, any amount to which he is entitled, and the duration of the benefit period;

(b) in a certificated case (notwithstanding anything in regulations 6 to 8) treat the claimant as eligible for that benefit, calculate the amount of his eligible rates or, as the case may be, eligible rent, and make a determination to grant him benefit ascertained under regulation 21.

(2) For the purposes of determining a claim, the appropriate authority shall request the claimant in writing to furnish such information and such evidence as it may reasonably require relating to any of the following matters—

(a) the amount of payments by way of rates or of rent liable to be made by the claimant or by other occupiers of the dwelling to which the claim relates;

(b) income which consists of rent payable to the claimant or to any partner of his;

(c) the number and identity of other occupiers of the dwelling;

(d) for the purposes of a rent allowance, the interest which the claimant has in the dwelling;

(e) except in a certificated case:
(i) the income of the claimant and of any partner of his (other than income referred to in sub-paragraph *(b)*),

(ii) the capital on which the claimant receives interest;

except that the appropriate authority need not make such a request where the information and the evidence which it requires for the purposes of determining the claim has been furnished with the claim, or is otherwise in its possession.

(3) A request made under paragraph (2) shall include a notice to the claimant which—

(a) informs him of his duty under regulation 29 to notify the appropriate authority of changes of circumstances; and

(b) (without prejudice to the extent of that duty) indicates to him the kinds of change of circumstances which are to be notified;

and where no such request is made, such a notice shall be given as soon as is reasonably practicable after receipt of the claim by the appropriate authority.

(4) An authority shall be under no duty to determine a claim unless it is satisfied that the claimant has furnished all such information and evidence as it reasonably requires, and which it has requested, for the purposes of determining that claim.

(5) An authority shall determine a claim within fourteen days of being furnished with such information and evidence as it reasonably requires for the purposes of determining that claim, or, if that is not reasonably practicable, as soon as possible thereafter.

(6) A claim may be withdrawn at any time, and if a claim is withdrawn the appropriate authority shall upon the withdrawal cease to be under any duty to make a determination on it, or to take any further steps in relation to it.

(7) Where, following a request for information under paragraph (2) in a case other than a certificated case, the claimant fails to furnish that information within six weeks of being requested to do so, the appropriate authority may, unless it considers that such failure was reasonable in all the circumstances, treat the claim as having been withdrawn.

(8) A claim under regulation 27(3) (benefit to take effect from end of current period) need not be entertained if it is made more than two months before the end of the current benefit period.

Duty to notify changes of circumstances

29.—(1) Subject to paragraph (2), if at any time between the making of a claim and its determination, or during the benefit period, there is a change of circumstances such that a person may reasonably be expected to know that it may affect his eligibility for housing benefit or the amount to which he is entitled, it shall be the duty of that person to notify the appropriate authority of that change, unless that change relates to either—

(a) the amount of rent payable to a housing authority, or

(b) the amount of rates payable to a rating authority.

(2) The duty imposed on a person by paragraph (1) shall extend, in a certificated case, only to—

(a) a change in the amount of rent or sums by way of rates payable by him (other than such changes as are specified in paragraph (1)*(a)* and *(b)*); or

(b) a change in the number of non-dependants or persons who pay rent to him and occupy his dwelling where, in each case, the change occurs after the date on which he is notified by the Secretary of State that he is entitled to qualifying supplementary benefit;

(c) a change in any amount of rent or sums by way of rates payable to him;

(d) cessation of his receipt of qualifying supplementary benefit,

but without prejudice to any requirements imposed by or under the Supplementary Benefits Act 1976 as to notification of any change of circumstances(**a**).

(3) In a certificated case a person shall notify the Secretary of State of any change in the number of non-dependants in his household which occurs on or before the date referred to in paragraph (2)*(b)*.

Changes leading to lesser amounts of benefit

30.—(1) If during a benefit period the appropriate authority considers, whether or not following a notification of a change of circumstances under regulation 29, that there has been a change of circumstances which will affect a beneficiary's eligibility for a housing benefit or reduce the amount to which he is entitled, that authority shall determine, according to the circumstances—

(a) in a case other than a certificated case, either

(i) that the benefit period shall terminate on a date earlier than that on which it would otherwise terminate, or

(ii) that the amount of the housing benefit shall be altered in accordance with paragraph (2);

(b) in a certificated case, that the amount of the housing benefit ascertained under regulation 21 shall be altered with effect from the week in which the change of circumstances occurred.

(**a**) *See* in particular regulation 8 of the Supplementary Benefit (Claims and Payments) Regulations 1981.

(2) The alteration referred to in paragraph (1)*(a)*(ii) shall be made so as to take effect—

(a) where the change of circumstances is a change in income, other than income by way of rent, from such time and for such period as the appropriate authority considers appropriate to reflect that change;

(b) in any other case, from the week in which the change of circumstances occurred.

(3) If the appropriate authority determines under paragraph (1)*(a)* that a person's benefit period ought to terminate, and it considers that he may nevertheless be entitled to an amount of benefit, it shall invite that person to make a further claim for benefit.

Changes leading to greater amounts of benefit

31.—(1) If during a benefit period the appropriate authority considers, whether or not following a notification of a change of circumstances under regulation 29, that there has been a change of circumstances which might entitle a beneficiary to a greater amount of a housing benefit, that authority, if it is of the opinion, after obtaining and considering such information and evidence as it requires, that that person is entitled to a greater amount of the housing benefit, shall determine, according to the circumstances,—

(a) in a case other than a certificated case, either

(i) that the benefit period shall terminate on a date earlier than that on which it would otherwise terminate, or

(ii) that the amount of the housing benefit shall be increased in accordance with paragraph (2);

(b) in a certificated case, that the amount of the housing benefit ascertained under regulation 21 shall be increased with effect from the week in which the change of circumstances occurred.

(2) The increase referred to in paragraph (1)*(a)*(ii) shall be made so as to take effect—

(a) where the change of circumstances is a change in income, other than income by way of rent, from such time and for such period as the appropriate authority considers appropriate to reflect that change;

(b) in any other case, from the week in which the change of circumstances occurred.

(3) If the appropriate authority determines under paragraph (1)*(a)* that a person's benefit period ought to terminate, it shall invite that person to make a further claim for benefit.

Changes in rates and housing authority rents

32. If there is such an alteration in the rates payable to a rating authority as to affect the amount of rate rebate to which a beneficiary is entitled, or in the rent payable to a housing authority as to affect the amount of rent rebate to which a beneficiary is entitled, the appropriate authority shall make such alterations to the amount of rate rebate, or, as the case may be, rent rebate as

are necessary to reflect the alteration in rates or rent, and any such alterations shall take effect from the week in which the rates were, or rent was, altered.

Disregard of small amounts

33. Except in a certificated case, a rating authority need not make any alteration under regulations 30, 31 or 32 if the amount of the alteration would be 20p or less, and except in such a case a housing or a local authority need not make any such alteration if its amount would be 40p or less.

PART VI

PAYMENT

Time and manner of payment

34.—(1) Subject to paragraph (2) and to regulations 35, 36, 37 and 39, an authority may pay housing benefit to which a beneficiary is entitled under these regulations at such time and in such manner as it thinks fit and may in particular—

(a) have regard to the times at which, and the frequency with which, a beneficiary's liability to make payments by way of rates or rent rises; and

(b) where a beneficiary's weekly entitlement to a housing benefit is less than 50 pence, pay that benefit at half yearly intervals.

(2) In paying any housing benefit an authority shall have regard to the reasonable needs and convenience of the beneficiary.

Interim payments of rent allowance

35.—(1) Where, in a certificated case, a local authority is unable to determine the amount of a person's rent allowance within fourteen days of the receipt by it of the certificate issued under regulation 9(1), it shall, unless no information has been provided to it regarding the rent payable by that person, make interim payments of rent allowance of such amount as appears to it to be reasonable in the circumstances, taking into account such information as may at that time be available regarding that person's eligible rent.

(2) Where there is a difference between the amount paid to a person under paragraph (1) and the amount found to be payable on the subsequent determination of the amount of his rent allowance, future payments of rent allowance shall be increased or reduced to take account of any underpayment or, as the case may be, overpayment.

Prompt first payment in certain cases

36. In addition to the duty under regulation 28(5), every authority shall, in a certificated case, make the first payment of such housing benefit as is granted by it within fourteen days of receipt by it of the certificate issued under regulation 9(1) or, if that is not reasonably practicable, as soon as possible thereafter.

Frequency of payments of rent allowance

37.—(1) Subject to paragraph (2), any rent allowance, other than a payment made in accordance with regulation 34 (1)*(b)*, 35 or 36, shall be paid—

(a) at intervals of one month or of four weeks; and

(b) at a time which is, so nearly as is possible, halfway through the period in respect of which that payment of allowance is made, except that where the beneficiary pays rent in arrears the allowance shall be paid at the end of that period.

(2) Where—

(a) in a certificated case, any beneficiary;

(b) in other cases, a beneficiary whose liability to pay rent arises weekly and whose entitlement to rent allowance exceeds £2 weekly,

requires the local authority to pay his rent allowance weekly, that allowance shall be so paid and paragraph (1) shall not apply.

Withholding of payment

38.—(1) A local authority may withhold any payment of rent allowance where it is satisfied on reasonable grounds that the beneficiary is not paying regularly the rent to which that allowance relates.

(2) A rating authority may, in a case where the beneficiary is liable to make payments by way of rates otherwise than to that authority, withhold any payment of rate rebate where it is satisfied on reasonable grounds that the beneficiary is not making regularly the payments by way of rates to which that rebate relates.

(3) A payment withheld under paragraph (1) or (2) shall be made at a later time if the authority withholding it is satisfied that the liability to which it relates will thereupon be discharged.

(4) Where an authority receives notification under regulation 29 which indicates that a person may no longer be in receipt of qualifying supplementary benefit it shall withhold payment of his housing benefit pending receipt of a notice of cancellation given by the Secretary of State under regulation 9(3), or receipt of confirmation from the Secretary of State that that person is still in receipt of qualifying supplementary benefit; and in either case payment shall be made at a later time of any amount to which that person is found subsequently to be entitled.

Persons to whom benefit may or shall be paid

39.—(1) Except as provided by paragraph (2), neither rent allowance nor, in a case where payments by way of rates are to be made otherwise than to the rating authority, rate rebate shall be paid to a person other than the beneficiary.

(2) A payment of rent allowance or rate rebate direct to a landlord or other person to whom rent is or sums by way of rates are payable—

(a) may be made where the beneficiary consents to or has requested such direct payment;

(b) may be made where the beneficiary is a tenant of a housing association or a housing trust (as defined in relation to England and Wales in section 189(1) of the Housing Act 1957 and in relation to Scotland in section 5(3) of the Rent (Scotland) Act 1971(**a**) and is at least thirteen weeks in arrears with his rent; and

(c) shall be made where the appropriate authority has been notified by or on behalf of the Secretary of State that pursuant to regulation 15B of the Supplementary Benefit (Claims and Payments) Regulations 1981 a weekly amount of the beneficiary's supplementary benefit is being paid to his landlord.

PART VII

RECOVERY OF OVERPAYMENTS

Meaning of overpayment

40. In this Part of these regulations "overpayment" means any amount of a housing benefit which has been paid but to which there was not entitlement under these regulations, including any excess of rebate and including any amount which was not due by reason that a certificate should not have been issued under regulation 9(1), or should have been cancelled under regulation 9(3).

Restriction on recovery in certificated cases

41. An overpayment made in a certificated case shall be recoverable only if it was made as a result of either—

(a) a misrepresentation (whether fraudulent or otherwise) made by any person as to a material fact; or

(b) a failure by any person to disclose a material fact.

Recovery by authorities

42.—(1) An authority may recover an overpayment made by it—

(a) in a case other than a certificated case; and

(b) in a certificated case, where the overpayment results from a misrepresentation of or failure to disclose any material fact relating to or affecting—

(i) eligible rates,

(ii) eligible rent, or

(iii) non-dependants.

(2) Without prejudice to any other method of recovery, an authority may recover any overpayment referred to in paragraph (1) from the person to whom it was made by deduction from any of the following benefits payable to that person—

(**a**) 1971 c. 28.

(a) rate rebate;

(b) rent rebate; or

(c) rent allowance.

Recovery by the Secretary of State

43.—(1) The Secretary of State may recover any overpayment to the extent that it is not recoverable by an authority under regulation 42.

(2) Without prejudice to any other method of recovery, the Secretary of State may recover an overpayment referred to in paragraph (1) from the person to whom it was made by deduction from any of the following benefits payable to that person—

(a) any benefit under the Social Security Act 1975 (including graduated retirement benefit) except maternity or death grant;

(b) old cases allowance;

(c) family income supplement under the Family Income Supplements Act 1970(**a**);

(d) any payment of benefit under the legislation of any member State other than the United Kingdom concerning the branches of social security mentioned in Article 4(1) of Regulation (EEC) No. 1408/71 on the application of social security schemes to employed persons and their families moving within the community (**b**), whether or not the benefit has been acquired by virtue of the provisions of that Regulation; or

(e) supplementary benefit.

(3) An authority shall supply the Secretary of State with such information in its possession as he may require for the purposes of recovering any overpayment recoverable by him under this regulation.

(4) Where an overpayment is recoverable by the Secretary of State he may require an authority to take steps to recover that sum on his behalf, whether by deduction from any of the benefits specified in regulation 42(2) or otherwise.

PART VIII

DETERMINATIONS AND REPRESENTATIONS

Determinations

44.—(1) Any matter which falls to be determined under these regulations shall, except to the extent that these regulations provide otherwise, be determined in the first instance by the appropriate authority in accordance with this Part of these regulations.

(2) Where there is a duty on an authority to make a determination or do any

(**a**) 1970 c. 55.
(**b**) O.J. No. L149, 5.7. 1971.

other thing it shall be sufficient discharge of that duty if the determination is made or the thing done by another authority on its behalf.

Notification of determinations

45.—(1) An authority shall notify a person in writing of every determination which it makes under these regulations in relation to him and every notification of such a determination shall include a notice explaining the right to make representations under regulation 46.

(2) Every notification of a determination which affects a person's entitlement to a housing benefit or the amount of his benefit shall include a notice to the effect that he may have on request a written statement showing how the amount of his benefit has been calculated, or, as the case may be, showing how he is not entitled to any benefit.

(3) Every notification of a determination to grant a housing benefit to a person shall inform him of—

(a) the amount of the housing benefit granted;

(b) except in a certificated case, the benefit period;

(c) his duty under regulation 29 (change of circumstances);

(d) in the case of a rent allowance:

(i) the frequency with which the allowance will be paid,

(ii) the period (whether in advance or in arrear) for which payments of allowance will be made, and

(iii) where the person is a person described in regulation 37(2)(*a*) or (*b*), the fact that he may require that the allowance be paid weekly.

(4) Where an authority makes a determination under regulation 24(1) it shall give notification of that determination both to the person eligible for housing benefit and to the person by reference to whose income the calculations are made, and that notification shall contain a statement of the authority's reasons for making that determination.

(5) Where a person requests of an authority a statement showing how his entitlement to housing benefit, or lack of it, has been calculated, the authority shall provide such a statement within fourteen days of the request having been made or, if that is not reasonably practicable, as soon as possible thereafter; and where an authority has exercised its powers under regulation 17 (unsuitable accommodation) that statement shall show the extent to which, and the reasons why, that person's eligible rates have or, as the case may be, eligible rent has been treated as reduced.

Representations in writing and review

46.—(1) A person may make representations to an authority concerning a determination which it makes in relation to him, and if an authority receives representations in writing from a person within six weeks of notification to him of such a determination it shall—

(a) consider those representations;

(b) review the determination and alter or confirm it according to the circumstances; and

(c) notify in writing the person making the representations:

(i) whether the determination is altered or confirmed, giving reasons for the alteration or confirmation, and

(ii) of his right to require a further review under regulations 47 to 49.

(2) For the purposes of calculating the period of six weeks mentioned in paragraph (1) no account shall be taken of any period beginning with the receipt by an authority of a request for a statement under regulation 45(5) and ending with the provision to that person of that statement.

Further review of determinations

47.—(1) A person who has made representations under regulation 46 (in this regulation and regulations 48 and 49 referred to as the "interested person") may within twenty eight days of notification having been given to him by an authority under that regulation of alteration or confirmation of a determination or within such further time as that authority may allow give or send to that authority notice in writing requiring a further review of that determination.

(2) The notice given by the interested person under paragraph (1) shall state the grounds on which a further review is required.

(3) The function of making the further review of an authority's determination shall not be that of the authority but that of a review board appointed by that authority and constituted in accordance with Schedule 5.

Procedure on further review

48.—(1) Within six weeks of receipt by an authority of a notice under regulation 47 requiring further review of a determination or, if that is not reasonably practicable, as soon as possible thereafter, the review board shall hold a hearing in order to further review that determination.

(2) Any matter may be proceeded with in the absence of one or more members of the review board provided that—

(a) there are at least two members present;

(b) where there are only two members present, the interested person consents; and

(c) one member present shall act as chairman.

(3) Reasonable notice of the time and place of the hearing shall be given to the interested person.

(4) If the interested person makes representations in writing in connection with the further review those representations shall be considered by the review board at the hearing.

(5) The interested person shall be entitled to be present at the hearing, other than any part of it set aside by the review board exclusively for the purpose of arriving at a decision, and—

(a) to be heard by the review board;

(b) to call persons to give evidence; and

(c) to put questions to any other person who gives evidence;

and may for these purposes be accompanied or represented at the hearing by another person (whether having professional qualifications or not).

(6) In the event of disagreement between the members of a review board any matter under consideration shall be decided by a simple majority of votes cast and in the case of an equality of votes the chairman shall have a second or casting vote.

(7) An authority may pursuant to these regulations pay travelling expenses in respect of attendance at the hearing to the interested person and to one other person representing him or accompanying him at the hearing.

(8) Subject to paragraphs (1) to (6) the review board may regulate their own procedure at the hearing and may in particular receive representations and evidence from such persons present as they consider appropriate.

Determinations on further review

49.—(1) Upon the further review the review board shall decide that the determination of the appropriate authority shall either be confirmed or be altered and where the determination has been altered under regulation 46 it shall decide that the determination as so altered shall either be confirmed or be altered.

(2) The review board shall record in writing every decision which it makes on further review and shall include in every such record a statement of the reasons for its decision and of its findings on material questions of fact.

(3) Within seven days of the review board's decision or, if that is not reasonably practicable, as soon as possible thereafter, a copy of the record of that decision, made in accordance with paragraph (2), shall be given or sent to the appropriate authority and to the interested person.

(4) Where the review board has made a decision that a determination of an authority shall be altered the authority that made that determination shall alter it in accordance with that decision.

Effect of alteration of determination

50. Any alteration of a determination under regulations 46 or 49 shall take effect as though it were made on the date of that determination.

PART IX

TRANSITORY PROVISIONS

Supplement to rent rebate or rent allowance

51.—(1) Where a person—

(a) immediately before 4th April 1983 was in receipt of a rent rebate or a

rent allowance under Part II of the Housing Finance Act 1972(**a**) or Part II of the Housing (Financial Provisions) (Scotland) Act 1972(**b**); and

(b) on 4th April 1983 is eligible for a rent rebate or a rent allowance under these regulations and, for the purposes of calculating any amount of rebate or allowance to which he is entitled, his income exceeds the relevant needs allowance,

he shall, subject to paragraph (2)(*b*), be entitled to an amount of rent rebate or, as the case may be, rent allowance under this regulation (which amount is referred to in this regulation as a "supplement") in addition to any other amount to which he may be entitled under these regulations.

(2) In order to calculate a person's supplement for each week there shall be taken a figure of 5% of the amount by which the weekly income of that person and any partner of his exceeds the relevant needs allowance, and

(a) where that figure exceeds 75 pence, the supplement for each week is the amount by which that figure exceeds 75 pence;

(b) where that figure is 75 pence or less, no supplement is payable.

(3) Subject to paragraphs (4)(*a*) and (5), a person's entitlement to a supplement shall be calculated by reference to his circumstances as at 4th April 1983 and account shall be taken by the appropriate authority of any change of circumstances which, though occurring on or before that date, was not reported to it until after that date.

(4) Where a person entitled to a supplement on 4th April 1983 becomes entitled subsequently under Part III of these regulations—

(a) to an increased amount of rent rebate or rent allowance, except an increase occasioned by an alteration of any needs allowance, that person's supplement shall be reduced by the amount of such increase, and if the amount of such increase exceeds the supplement, his entitlement to a supplement shall cease;

(b) to a lesser amount of rent rebate or rent allowance, or to an increased amount occasioned by an alteration of a needs allowance, his supplement shall not thereby be altered.

(5) On and after 21st November 1983 any supplement payable to a person shall be reduced by 75 pence, and if the amount of that supplement is, immediately before that date, 75 pence or less that person's entitlement to a supplement shall cease.

(6) Where a person ceases to be entitled to a supplement under paragraph (4) or (5) he shall not thereafter be entitled to a supplement despite any further change of circumstances.

(7) No person shall be entitled to a supplement for any period after 1st April 1984.

(8) Regulation 20(1) (minimum amounts of benefit) applies to amounts of rent rebate or rent allowance which include a supplement and, in a case where

(**a**) 1972 c. 47.
(**b**) 1972 c. 46.

the only amount of such rebate or allowance is a supplement, to the supplement.

(9) In this regulation, "relevant needs allowance" has the same meaning as in regulation 19.

Certain former tenants of the Greater London Council

52.—(1) This regulation applies to an eligible person who—

(a) occupies, and on 1st April 1982 occupied, a dwelling in respect of which the interest of the Greater London Council was transferred either—

(i) under section 104 of the Housing Act 1957(**a**) during the period beginning with 1st April 1982 and ending with 31st March 1983, or

(ii) by virtue of the Greater London Council (Transfer of Land and Housing Accommodation) (No. 2) Order 1981(**b**),

to one of the following London Boroughs, namely, Brent, Camden, Hackney, Haringey, Hounslow, Lambeth, Lewisham or Waltham Forest; and

(b) immediately before 1st April 1983 was in receipt of a rent rebate under Part II of the Housing Finance Act 1972(**c**) in respect of that dwelling of the appropriate amount specified in regulation 4 of the Rent Rebate (Transfer of Greater London Council Housing Accommodation) Regulations 1982(**d**).

and any such person is referred to in this regulation as a "relevant person".

(2) The amount of rent rebate to which a relevant person is entitled from 4th April 1983 shall be—

(a) the amount to which he is entitled under the other provisions of these regulations; or

(b) subject to paragraphs (3) and (4), the appropriate amount referred to in paragraph (1)*(b)*,

whichever is the greater amount.

(3) Where the weekly amount of rent rebate to which a relevant person would have been entitled on 4th April 1983 under Part II of the Housing Finance Act 1972 if that Part had remained in force (excluding any modifications thereto made by regulations under section 102 of that Act) exceeds that to which he is entitled on that date under Part III of these regulations, there shall be deducted from the amount referred to in paragraph (2)*(b)* an amount equal to the excess.

(4) Where on 4th April 1983 the amount of rent rebate to which a relevant person is entitled is that specified in paragraph (2)(*b*) and after that date there is a change of circumstances such that if the amount of that person's rent rebate were that specified in paragraph (2)(*a*) a deduction of any amount would be

(**a**) 1957 c. 56.
(**b**) S.I. 1981/536.
(**c**) 1972 c. 47.
(**d**) S.I. 1982/303.

made, then a deduction of that amount shall be made from the amount referred to in paragraph (2)(*b*).

(5) This regulation shall cease to have effect on 1st April 1984.

Signed by Authority of the Secretary of State for Social Services.

Hugh Rossi,
Minister of State,
Department of Health and
Social Security.

30th July 1982.

We consent,

Geoffrey Howe,
John Selwyn Gummer,
Two of the Lords Commissioners of
Her Majesty's Treasury.

3rd August 1982.

SCHEDULE 1 Regulations 2 and 16(4)

STUDENTS

PART I Regulation 2

Classes of award or grant

Class 1: awards bestowed under section 1 of the Education Act 1962(**a**), other than those in respect of attendance at sandwich courses and part-time courses of teacher training

Class 2: awards bestowed under section 2 of the Education Act 1962 in respect of attendance at sandwich courses

Class 3: awards bestowed under section 2(1) of the Education Act 1962 in respect of attendance at courses of full-time education within the meaning of section 2(2) of that Act

Class 4: awards (other than State Studentships) in respect of attendance at courses designated by or under the State Awards Regulations 1978(**b**)

Class 5: State Studentships

Class 6: awards or grants, being bursaries, scholarships or allowances granted under section 49(1) or 73(*f*) of the Education (Scotland) Act 1980(**c**) other than those in respect of attendance at sandwich courses

Class 7: awards or grants, being bursaries, scholarships or allowances granted under section 49(1) or 73(*f*) of the Education (Scotland) Act 1980 in respect of attendance at sandwich courses

Class 8: Postgraduate Agricultural Studentships awarded by the Ministry of Agriculture, Fisheries and Food

Class 9: Postgraduate Agricultural Studentships awarded by the Department of Agriculture and Fisheries for Scotland

Class 10: awards for courses for orthoptists, physiotherapists, occupational therapists, radiographers, remedial gymnasts, dental hygienists and dental auxiliaries made by the Department of Health and Social Security

Class 11: awards for postgraduate social service courses made by the Department of Health and Social Security

Class 12: Technical Assistance Study Fellowships awarded by the Overseas Development Administration

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(**a**) 1962 c. 12; sections 1 and 2 were substituted by section 19 of, and Schedule 5 to, the Education Act 1980 (c.20).
(**b**) S.I. 1978/1096, amended by S.I. 1979/333.
(**c**) 1980 c.44.

Class 13: Postgraduate Studentships, or Postgraduate Fellowships, awarded by the Agricultural Research Council, the Medical Research Council, the Natural Environment Research Council, the Science Research Council, or the Social Science Research Council

Class 14: Postgraduate Bursaries awarded by the Social Science Research Council

Class 15: Intercalated Studentships awarded by the Medical Research Council

Class 16: Bursaries awarded by the United Kingdom Atomic Energy Authority

Class 17: awards by the British Council under British Council Scholarships, Scholarships and Fellowships made under the Commonwealth Scholarhip and Fellowship Plan, and awards made by the World University Service

Class 18: awards made under Articles 39 and 40 of the Education and Libraries (Northern Ireland) Order 1972(**a**) or regulations made thereunder (**b**) other than awards in respect of attendance at sandwich courses

Class 19: awards made under Articles 39 and 40 of the Education and Libraries (Northern Ireland) Order 1972 or regulations made thereunder in respect of attendance at a sandwich course

Class 20: awards made under Article 40 of the Education and Libraries (Northern Ireland) Order 1972 being bursaries in respect of postgraduate courses or courses comparable to postgraduate courses

Class 21: awards made under Article 40 of the Education and Libraries (Northern Ireland) Order 1972 being studentships in respect of postgraduate courses or courses comparable to postgraduate courses

Class 22: Industrial Scholarships awarded under section 20(1) of the Education Act 1980 in respect of persons undertaking full-time courses of higher education within the meaning of section 20(2) and (3) of that Act

Class 23: any awards or grants considered by the appropriate authority to be analogous to any of the preceding classes of awards or grants

(**a**) S.I.1972/1263 (N.I. 12).
(**b**) *See* the Students Awards Regulations (Northern Ireland) 1977.

PART II Regulation 16(4)

Period of deduction for students when calculating eligible rent

Column 1	Column 2
Type of award or grant	Period of deduction
Classes 1, 6, 10, 15, 16 and 18	Each term; and any period of the vacation in respect of which payments are made in pursuance of the award or grant at the rate applicable to additional attendance at the course.
Classes 2, 7, 19 and 22	Each period of full-time study in an establishment, and any period of the vacation in respect of which payments are made in pursuance of the award or grant at the rate applicable to additional periods of such study.
Classes 3, 4, 11, 14 and 20	Each term.
Classes 5, 8, 9, 12, 13, 17 and 21	The period for which a state award is tenable under regulation 9 of the State Awards Regulations 1978.
Class 23	A period equivalent to the period specified above in relation to the class to which the award or grant is considered by the appropriate authority to be analogous.

In this Schedule—

"sandwich course" has the meaning assigned to it by paragraph 1 of Schedule 5 to the Education (Mandatory Awards) Regulations 1981(**a**); and

"State Studentship" has the same meaning as in the State Awards Regulations 1978.

SCHEDULE 2 Regulation 14(1)(*b*)

AMOUNTS TO BE DISREGARDED WHEN ASCERTAINING WEEKLY INCOME FOR ANY HOUSING BENEFIT

1. Any amount which under regulation 15(2) and (3) is or could be the eligible rates of some other person.

2. Where the eligible person makes payments by way of rent, any amount which falls to be deducted under regulation 16(2)(*d*) (rent payable to the eligible person).

3. Any payment made to the eligible person or his partner by a dependent child of his or of his partner or by a non-dependant.

(**a**) S.I. 1981/943.

4.—*(a)* In a case not falling within sub-paragraph (*b*), £18.00 of any earnings of the eligible person and £5 of any earnings of his partner;

(b) where the eligible person has a partner whose earnings are greater than his, £5 of any earnings of the eligible person and £18.00 of the earnings of his partner.

5. Any sums payable by virtue of regulations made under section 81 of the Education Act 1944(**a**) (financial assistance for education), or any sums payable under section 2(1) of the Education Act 1962 (payment to persons over compulsory school age) or section 49 of the Education (Scotland) Act 1980 (financial assistance to enable persons to take advantage of educational facilities).

6. Any attendance allowance, that is to say any of the following—

(a) an attendance allowance under section 35 of the Social Security Act 1975;

(b) an increase of disablement pension under section 61 or 63 of that Act (increases in respect of the need for constant attendance);

(c) a payment made under regulations made in exercise of the power conferred by section 159(3)(b) of that Act (constant attendance allowance and an increase for exceptionally severe disablement for certain 1948 cases);

(d) an increase of allowance which is payable in respect of constant attendance under a scheme having effect by virtue of the Industrial Injuries and Diseases (Old Cases) Act 1975(**b**); or

(e) an allowance in respect of constant attendance on account of disablement for which a person is in receipt of a war disablement pension, including an allowance in respect of exceptionally severe disablement.

7. Any mobility allowance under section 37A of the Social Security Act 1975(**c**).

8. Any sums payable to any person as holder of the Victoria Cross or of the George Cross.

9. Any supplementary benefit.

(**a**) 1944 c. 31.
(**b**) 1975 c. 16.
(**c**) 1975 c. 14; section 37A was added by section 22(1) of the Social Security Pensions Act 1975 (c. 60).

10. £4 of any of the following, namely—

(a) war disablement pension;

(b) industrial disablement pension;

(c) old cases allowance;

(d) any weekly payment by way of compensation under any enactment relating to workmen's compensation;

(e) a pension paid for disablement to a person who has retired from employment because of ill-health or disablement, if it has been awarded—

(i) for a disablement attributable to or aggravated by the employment, and

(ii) at a higher rate than it would have been if the disablement had not been attributable to or aggravated by the employment;

(f) any ex gratia payment for injuries paid by:

(i) the Home Office Prison Department, or

(ii) the Department of Employment,

where payments of that kind are made or to be made to the eligible person for a period exceeding six months;

(g) a pension paid under the social security scheme of a country outside Great Britain which is received in Great Britain by a person resident in Great Britain and which either—

(i) is analogous to a war disablement pension or an industrial disablement pension, or

(ii) is paid to a widow in respect of a person's death but is otherwise analogous to such a pension.

(h) a pension paid in respect of a person's service as a policeman or fireman

(i) for disablement, or

(ii) to that person's widow;

(i) a Greenwich Hospital Age Pension where it is paid to a person in receipt of any disablement pension;

(j) a supplementary allowance paid by the National Coal Board to a former colliery worker to supplement any payment by way of compensation either under any enactment relating to workmen's compensation or under any statutory scheme relating to pneumoconiosis or byssinosis;

(k) a payment of—

(i) any pension or other benefit such as is referred to in Section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(**a**) which is awarded in respect of death due to service in the armed forces of the Crown,

(**a**) 1977 c. 5.

(ii) any pension or other benefit awarded in respect of death under the Personal Injuries (Emergency Provisions) Act 1939(**a**), the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(**b**) or the Polish Resettlement Act 1947(**c**), or

(iii) any pension or other benefit which is considered by the appropriate authority to be analogous to any pension or other benefit specified in (i) or (ii) above;

(l) pension payable under any special provision made by the law of the Federal Republic of Germany or any part of it, or of Austria, for victims of National-Socialist persecution;

(m) a widow's pension (by way of industrial injuries benefit) payable at the initial rate or the higher permanent rate under section 68 of the Social Security Act 1975.

11. £4.00 of any charitable payment or of any voluntary payment other than a payment which is made by a person for the maintenance of his partner or his former partner or his children.

12. Where the eligible person is a grant-aided student—

(a) an amount equal to that amount, if any, which, under regulation 16(2)(*e*) and Part II of Schedule 2 is deducted for the purposes of ascertaining eligible rent, but only in respect of those weeks referred to in regulation 16(4); and

(b) any amount by which his grant is increased on account of his maintaining a home at a place other than that at which he resides during his course.

13. An amount equal to any maintenance payment made by the eligible person or his partner to the former partner of either of them or in respect of children of either of them, other than dependent children.

14. In the case of a person attending a training course under the Training Opportunities Scheme established under section 2(1) of the Employment and Training Act 1973(**d**) or a course at an employment rehabilitation centre established under that section—

(a) any payment received from the Manpower Services Commission in respect of travelling expenses incurred as a result of his attendance on the course, and

(**a**) 1939 c. 82.
(**b**) 1939 c. 83.
(**c**) 1947 c. 19.
(**d**) 1973 c. 50.

(b) if he receives an allowance from the Manpower Services Commission under the provisions of section 2(2)(d) of that Act and that allowance includes an amount expressed to be a lodging allowance, £10.85 of that lodging allowance.

15. Where the eligible person or his partner makes a parental contribution in respect of a grant-aided student which has been assessed for the purposes of calculating—

(a) under regulations made in exercise of the powers conferred by section 1 of the Education Act 1962(**a**), that student's award under that section;

(b) that student's award under section 2 of that Act; or

(c) under regulations made in exercise of the powers conferred by section 49 of the Education (Scotland) Act 1980(**b**), that student's bursary, scholarship or other allowance under that section,

an amount equal to the weekly amount of that parental contribution, but only in respect of the period for which that contribution is assessed as being payable.

16. Where the eligible person or his partner is the parent of a student under twenty five years of age in advanced education who either—

(a) is not in receipt of any award of grant in respect of that education; or

(b) is in receipt of an award under section 2 of the Education Act 1962 (discretionary awards) or a bursary, scholarship or other allowance under section 49(1) of the Education (Scotland) Act 1980,

and the eligible person or his partner makes payments by way of a contribution towards the student's maintenance, other than a parental contribution falling within paragraph 15, an amount, in respect of weeks during the student's term, equal to—

(aa) the weekly amount of those payments; or

(ab) £18.60 less the weekly amount of any award referred to in sub-paragraph *(b)*,

whichever is the lesser amount.

17. Any payment made by way of allowance to a person in respect of a child boarded out with him—

(a) by a local authority within the meaning of the Child Care Act 1980(**c**) or a local authority for the purposes of the Social Work (Scotland) Act 1968(**d**); or

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(a) *See* the Education (Mandatory Awards) Regulations 1981 (S.I. 1981/943).
(b) *See* the Education Authority Bursaries (Scotland) Regulations 1978 (S.I. 1978/998), amended by S.I. 1979/840, 1980/988, 1981/966.
(c) 1980 c.5.
(d) 1968 c.49; section 1(2) (local authorities) was amended by section 214 of, and paragraph 183 of Part II of Schedule 27 to, the Local Government (Scotland) Act 1973 (c.65).

(b) by a voluntary organisation within the meaning of either of those Acts in circumstances to which the Boarding-Out of Children Regulations 1955(a) or the Boarding-Out of Children (Scotland) Regulations 1959(b) apply,

to the extent, if any, to which that payment exceeds the amount by which, under regulation 13(3), the needs allowance is increased in respect of a dependent child.

18. Interest on National Savings Certificates.

19. The total disregard under paragraphs 10 and 11 shall in no case exceed £4.00 and where a number of voluntary or charitable payments (other than those payments for maintenance mentioned in paragraph 11) are received, they shall be treated as though they were one payment for the purposes of paragraph 11.

Regulation 16(2)(*b*)(*c*) and (*d*)

SCHEDULE 3

Deductions In Respect Of Charges For Fuel And Services And In Respect Of Rent For The Purposes Of Computing Eligible Rent

Interpretation

1. In this Schedule—

(a) "relevant agreement" means, in relation to any amount, the agreement under which that amount is payable; and

(b) a reference to the provision of services includes a reference to the provision of facilities, except the use of furniture, and includes a reference to the making available of rights.

Deductions for charges for fuel

2. Except in a certificated case, the amounts to be deducted for charges for fuel in respect of heating (other than hot water), hot water, lighting or cooking are—

(a) where under the relevant agreement the amount payable in respect of any such fuel is charged separately or is otherwise readily identifiable, the amount so payable;

(b) in any other case, such amount of the rent as the appropriate authority considers is fairly attributable to a charge for any such fuel.

(a) S.I. 1955/1377, to which there are amendments not relevant to these regulations.
(b) S.I. 1959/835.

3. Subject to paragraphs 4 to 6, in a certificated case, the amounts to be deducted in respect of each week are—

(a)	for heating (other than hot water)	£5.60
(b)	for hot water	£0.65
(c)	for lighting	£0.65
(d)	for cooking	£0.45.

4. Subject to paragraph 6, where under the relevant agreement an amount payable for any such fuel is charged separately or is otherwise readily identifiable, there shall be deducted the amount so payable for that fuel or the relevant amount specified in sub-paragraphs (*a*) to (*d*) of paragraph 3, whichever is the lesser amount.

5. Where the appropriate authority considers that the amount which would otherwise be deducted under paragraphs 3 or 4 in respect of a charge for fuel does not provide for all the necessary expenditure on that fuel of the eligible person's supplementary benefit assessment unit, there shall be deducted for the charge for that fuel such lesser amount as that authority considers reasonable in the circumstances.

6. Where under the relevant agreement the amount payable in respect of any fuel for heating (other than hot water), hot water, lighting or cooking varies in accordance with the amount of fuel actually used (whether by means of a variable charge or a system of refunds or credits or otherwise) the deduction to be made for the charge for that fuel shall be the amount so payable.

Deduction for other services

7. Subject to paragraph 9, a deduction shall be made under regulation 16(2)(*c*) only in respect of provision of the following services—

(a) cleaning of windows, other than windows of any communal area;

(b) sports facilities (not including a children's play area);

(c) laundering, other than the mere provision of facilities which may be used by the eligible person for doing his own laundry;

(d) any other service which the appropriate authority, having taken into account the age and other circumstances of the eligible person and the type and location of his dwelling, considers is not reasonably necessary for the proper enjoyment of that dwelling by the eligible person.

8. The amount of the deduction referred to in paragraph 7 shall be—

(a) where under the relevant agreement the amount payable in respect of the provision of the service is charged separately or is otherwise readily identifiable, the amount so payable;

(b) in any other case, such amount of the rent as the appropriate authority considers is fairly attributable to the provision of any such service.

9. Where no deduction would otherwise be made under paragraph 7 in

respect of a payment for the provision of a service, but the appropriate authority considers that the payment is excessive in relation to the service provided for the eligible person, it may make a deduction under regulation 16(2)(*c*) in respect of that payment of such amount as it considers appropriate in the circumstances.

Deductions for rent payable to the eligible person

10. The amount to be deducted for rent payable to the eligible person is the amount so payable less—

(a) any amount of that rent which the appropriate authority considers is fairly attributable to:

(i) rates;

(ii) charges for water, sewerage or allied environmental services;

(iii) the provision of board; or

(iv) the provision of heating (other than hot water), hot water, lighting or cooking; and

(b) an amount of that rent for services provided by the eligible person and the use of furniture provided by him and in respect of which (in each case) the eligible person does not himself pay rent, such amount being that specified in paragraph 11.

11. The amount referred to paragraph 10(*b*) is—

(a) where rent payable to the eligible person:

(i) includes an amount in respect of the use of furniture, £2.50,

(ii) does not include an amount in respect of the use of furniture, £1.25; and

(b) £0.35 in respect of any garage or outbuilding for which rent is payable to the eligible person.

Regulation 19(8)

SCHEDULE 4

Areas Of High Rent

1. A housing authority may apply to the Secretary of State for an authorisation to grant rent rebates in accordance with this Schedule either—

(a) generally, or

(b) for any class of dwelling,

and if the Secretary of State considers that the level of rents payable to that authority for dwellings in respect of which the application is made exceeds 120% of the general level of rents payable to other housing authorities, he may authorise it to grant rent rebates for those dwellings in accordance with this Schedule.

2. A local authority may apply to the Secretary of State for an authorisation to grant rent allowances in accordance with this Schedule either—

(a) generally, or

(b) for any class of dwelling,

and if the Secretary of State considers that the level of rents payable in the area of that authority for dwellings in respect of which the application is made exceeds 115% of the general level of rents payable elsewhere in Great Britain otherwise than to a housing authority, he may authorise it to grant rent allowances for those dwellings in accordance with this Schedule.

3. An authorisation under paragraph 1 or 2 shall be for such period as the Secretary of State may specify in granting it and may be made conditional upon compliance by the authority with such terms as he may specify in granting it.

4. Where a local authority is also a housing authority—

(a) no authorisation shall be given under paragraph 1 to that authority otherwise than in respect of a particular class of dwelling unless either:

(i) it has made application also under paragraph 2(*a*), or

(ii) the Secretary of State considers that upon any application under paragraph 2(*a*) no authorisation under that paragraph would be granted by reason that the level of rents payable in its area otherwise than to that authority does not exceed the amount there specified; and

(b) no authorisation shall be given under paragraph 2 to that authority otherwise than in respect of a particular class of dwelling unless either:

(i) it has made application also under paragraph 1(*a*), or

(ii) the Secretary of State considers that upon any application under paragraph 1(*a*) no authorisation under that paragraph would be granted by reason that the level of rents payable to that authority does not exceed the amount there specified.

5. Where a housing authority is authorised under paragraph 1 any amount of rent rebate to which an eligible person is entitled in respect of a dwelling to which the authorisation applies shall be calculated by it in accordance with paragraphs 7 to 9.

6. Where a local authority is authorised under paragraph 2 any amount of rent allowance to which an eligible person is entitled in respect of a dwelling to which the authorisation applies shall be calculated by it in accordance with paragraphs 7 to 9.

7. There shall be taken a figure of 120% of the general level of weekly rents payable to housing authorities in Great Britain, which level shall in relation to any authorisation be determined by the Secretary of State when granting it; and that figure is referred to in this Schedule as £y.

8. The weekly eligible rent of the eligible person shall be compared with £y and--

(a) where it is less than £y the calculation of his rent rebate or rent allowance is made under regulation 19;

(b) where it is equal to or exceeds £y the calculation of his rent rebate or rent allowance is made under regulation 19 as though for the reference in paragraph (2)(*b*) of that regulation to 60% of the weekly eligible rent there were substituted a reference to:

(i) 90% of the weekly eligible rent minus 30% of £y, or

(ii) 80% of the weekly eligible rent,

whichever is the lesser figure.

9. Except as is otherwise provided by this Schedule the other provisions of these regulations shall have effect in relation to cases to which it applies as they have effect in relation to other cases.

10. For the purposes of this Schedule the Secretary of State shall estimate any general level of rents in such manner as he thinks fit.

SCHEDULE 5 Regulation 47(3)

CONSTITUTION OF REVIEW BOARDS

A review board appointed by an authority listed in column (1) of the Table below shall consist of not less than three of the persons specified in relation to that authority in column (2) of that Table.

TABLE

Column (1)	Column (2)
Authority	Composition of board
1.A local authority other than the Common Council of the City of London.	1. Councillors of that authority.
2.The Common Council of the City of London.	2. Persons who are mayor, aldermen or common councilmen.
3.The Greater London Council.	3. Councillors of that Council.
4.A new town corporation.	4. Members of that development corporation established under the New Towns Act 1981(**a**) or the New Towns (Scotland) Act 1968(**b**) or, as the case may be, of the Commission for the New Towns.
5.The Development Board for Rural Wales.	5. Members of that Board.
6.The Scottish Special Housing Association.	6. Members of the Council of Management.

(**a**) 1981 c. 64.
(**b**) 1968 c. 16.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations contain the statutory schemes for the granting by local and certain other authorities of rate rebates, rent rebates and rent allowances. They supersede Part II of and Schedules 3 and 4 to the Housing Finance Act 1972 (rent rebates and allowances) and sections 11 to 14 of the Local Government Act 1974 (c.7) (rate rebates) and the corresponding legislation in Scotland.

Part I (regulations 1 to 4) contains general provisions, including the dates of commencement. The regulations will apply from 22nd November 1982 only to certain housing authority tenants in receipt of supplementary benefit; they may obtain rent rebate and rate rebate under these regulations from that date, whereas others may continue to obtain rebates and allowances under the legislation being superseded until 4th April 1983 when these regulations become fully operative.

Part II (regulations 5 to 11) specifies who is eligible for rebate or allowance. Subject to certain exceptions (for example, in the case of rent rebates and allowances, long leaseholders), persons liable to pay rates are eligible for a rate rebate, persons liable to pay rent to a housing authority are eligible for a rent rebate, and persons liable to pay rent to others (for example a private landlord) are eligible for a rent allowance. There is special provision for householders on supplementary benefit (subject to certain exceptions); in these cases the authority granting the rebate or allowance must treat the householder as eligible for a rebate or allowance on being informed by the Secretary of State that that householder is entitled to supplementary benefit.

The amount of rebate or allowance to which a person is entitled is calculated under Part III (regulations 12 to 24) and Schedules 1 to 4. This amount is determined in most cases by reference to a "needs allowance", income, the amount of rates or rent, and deductions for other non-dependent persons living in the household. Not all payments of rates or rent may be met by a rebate or allowance; regulations 15 and 16 and Schedule 3 prescribe which elements of those payments may be so met (eligible rates and eligible rent). There is special provision for householders receiving supplementary benefit who normally receive a rebate or allowance of 100% of their eligible rates or eligible rent less the deduction for other non-dependent persons in the household.

There is also special provision for calculating rent rebates or allowances in areas which the Secretary of State considers to be areas of high rent. For these areas the Secretary of State may permit an authority to calculate the rebates or allowances by means of a formula which results in grants of higher amounts than would otherwise be granted under these regulations.

Part IV (regulations 25 and 26) prescribes the duration of the period for which a rebate or allowance is granted. That period will normally begin on the date of claim and will end, at the latest, after fourteen months. A person wishing to continue to receive a rebate or allowance at the end of the relevant period must make a fresh claim. However, those householders receiving

supplementary benefit are entitled to their rebate or allowance for so long as they remain entitled to supplementary benefit.

Part V (regulations 27 to 33) concerns the manner of claiming rebate or allowance and the effect of changes of circumstances which occur after a claim has been made. A claim should be made to the authority which will grant the rebate or allowance, but no such claim need be made by householders receiving supplementary benefit; in those cases it will be sufficient for the authority to be informed by the Secretary of State that the householder is entitled to such benefit. The procedure following a claim and the powers of an authority to obtain information in connection with the claim are set out in Part V. Also, persons must notify changes of circumstances to the appropriate authority and where a change occurs, the authority may alter the amount of rebate or allowance or take certain other steps.

Part VI (regulations 34 to 39) concerns payments; it includes provisions as to frequency and timing of payments and gives power to authorities to withhold payments in certain circumstances.

Part VII (regulations 40 to 43) concerns the recovery of overpayments. An authority recovering an overpayment may do so by means of deduction from future rebates or allowances. However, there are restrictions on the right to recover overpayments in the supplementary benefit cases and in some such cases it is for the Secretary of State to recover overpayments.

The determination of matters under these regulations, and the right of a person affected by a determination to be notified of it and to have it reviewed are provided for in Part VIII (regulations 44 to 50) and Schedule 5. In particular, a person may if he wishes have a determination reviewed twice, the second review being conducted by boards specially appointed for that purpose.

Part IX (regulations 51 and 52) contains transitory provisions.

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