STATUTORY INSTRUMENTS

1983 No. 438

HOUSING, ENGLAND AND WALES
HOUSING, SCOTLAND
RATING AND VALUATION

The Housing Benefits (Transitional) Amendment Regulations 1983

Made - - - -	17*th March* 1983
Laid before Parliament	24*th March* 1983
Coming into operation for the purposes specified in regulation 1(1)(*a*)	1*st April* 1983
for all other purposes	4*th April* 1983

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

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

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Housing Benefits (Transitional) Amendment Regulations 1983 and shall come into operation—

(a) on 1st April 1983 in so far as they relate to rate rebate for a person or his partner (within the meaning of the Housing Benefits Regulations 1982 (**d**)) where that person is not a tenant of a housing authority;

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

(2) In these regulations, the "Transitional Regulations" means the Housing Benefits (Transitional) Regulations 1982 (**e**).

(a) 1982 c.24.
(b) 1975 c.14.
(c) *See* section 36(1)(*a*) of the Social Security and Housing Benefits Act 1982.
(d) S.I. 1982/1124, to which there are amendments not relevant to these regulations.
(e) S.I. 1982/1520, amended by S.I. 1983/57.

Amendment of regulation 2 of the Transitional Regulations

2.—(1) Regulation 2 of the Transitional Regulations (persons in receipt of rebates or allowances under repealed legislation) is amended in accordance with the following paragraphs of this regulation.

(2) At the end of paragraph (2) there are added the words ", but where interim payments are made under paragraph (4) of this regulation, such determination need not be made until 30th June 1983".

(3) At the end of paragraph (3) there are added the words ", except that where interim payments have been made under paragraph (4) of this regulation and at the time of the determination under paragraph (2) of this regulation that period would already have ended, the appropriate authority shall determine a new benefit period in accordance with regulation 25 of the principal regulations as though for any reference in that regulation to the date on which a claim for a housing benefit was received were substituted a reference to the relevant date".

(4) After paragraph (3) there are added the following paragraphs:—

"(4) Pending a determination under paragraph (2) of this regulation the appropriate authority may make to a person who immediately before the relevant date was in receipt of any amount of rebate or allowance under an old scheme interim payments of the corresponding housing benefit of that amount.

(5) Where there is a difference between the amount of any interim payments made to a person under paragraph (4) of this regulation and the amount, if any, found upon the subsequent determination of his housing benefit to have been payable to him from the relevant date (the "benefit rightly payable")—

(a) if the amount of the interim payments exceeds the benefit rightly payable, or there is no benefit rightly payable, the difference, or, as the case may be, the amount of the interim payments shall be recoverable under Part VII of the principal regulations as though it were an overpayment within the meaning of regulation 40 of those regulations and recoverable under regulation 42(1) of those regulations;

(b) if the benefit rightly payable exceeds the amount of the interim payments, the interim payments shall be treated as made on account of that benefit.".

Amendment of regulation 6 of the Transitional Regulations

3.—(1) Regulation 6 of the Transitional Regulations (persons awarded supplementary benefit for housing benefit expenditure) is amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (1)—

(a) for the words "an eligible person" there are substituted the words "a person";

(b) in sub-paragraph *(b)* for the words "to the eligible person" there are substituted the words "to that person in respect of a period on or after the relevant date"; and

(c) after the words "under regulation 9" there are inserted the words "of the principal regulations".

(3) For paragraph (2) there is substituted the following paragraph:—

"(2) Where the provisions of paragraph (1) apply to a person the date stated on the certificate issued in respect of him under regulation 9 of the principal regulations shall be the relevant date and the amount of housing benefit to which he or his partner is entitled in respect of the period referred to in paragraph (1)*(b)* shall be reduced by the amount which the Secretary of State certifies—

(a) is attributable to that period; and

(b) was paid to that person as a consequence of the award referred to in paragraph (1)*(b)*, and was attributable to the inclusion in the assessment of that person's requirements for the purposes of that award any items referred to in paragraph (1)*(a)*.".

(4) After paragraph (2) there are inserted the following paragraphs:—

"(2A) Where—

(a) a person or his partner has been awarded, and is entitled immediately before the relevant date to, supplementary benefit;

(b) in respect of a period on or after the relevant date the Secretary of State continues to pay to him or to his partner an amount equal to the amount of the award of supplementary benefit;

(c) after the relevant date that award is reviewed and revised by a benefit officer and it is determined that that person or his partner was not entitled to qualifying supplementary benefit on the relevant date by virtue of any amendment made to the Requirements Regulations coming into operation on that date (a); and

(d) that person claims by 30th September 1983, and is entitled to, a housing benefit,

his benefit period shall, notwithstanding regulation 25 of the principal regulations, begin on the relevant date.

(2B) Where by virtue of paragraph (2A) a person's benefit period begins on the relevant date, the amount of housing benefit to which he is entitled in respect of the period referred to in paragraph (2A)*(b)* shall be reduced by the amount which the Secretary of State certifies—

(a) is attributable to that period; and

(b) was paid to that person or his partner as a consequence of the award of supplementary benefit referred to in paragraph (2A).".

(2C) Where a person is entitled to a rate rebate and to a rent rebate or allowance, the reduction of his housing benefit referred to in paragraphs (2) and (2B) shall be made against the aggregate of those benefits and—

(a) if the appropriate authority in respect of each of those benefits is the same, by means of reduction of such one or more of them as it may determine; and

(b) in any other case, by means first of reduction of his rent rebate or allowance and then, if any further reduction is to be made, by means of reduction of his rate rebate.".

(a) *See* the Supplementary Benefit (Housing Benefits) (Requirements and Resources) Consequential Amendments Regulations 1982 (S.I. 1982/1126) and the Supplementary Benefit (Housing Benefits) (Requirements) Consequential Amendment Regulations 1982 (S.I. 1982/1634).

(5) In paragraph (3), for sub-paragraph *(b)* there is substituted the following sub-paragraph:—

"(b) in this regulation a reference to a paragraph designated by number or letter is to the paragraph of this regulation so designated".

(6) For paragraph (4) there is substituted the following paragraph:—

"(4) Paragraphs (1) and (2), and paragraph (2C) in its application to those paragraphs, shall cease to have effect on 1st September 1983.".

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

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

16th March 1983.

We consent,

P. L. Brooke,
J. A. Cope,
Two of the Lords Commissioners
of Her Majesty's Treasury.

17th March 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations amend the Housing Benefits (Transitional) Regulations 1982 (the "transitional regulations") which make transitional provision in connection with the statutory schemes (the "new schemes") for the granting by local authorities of rate rebates, rent rebates and rent allowances (together called "housing benefits") introduced by Part II of the Social Security and Housing Benefits Act 1982 (the "1982 Act") and the Housing Benefits Regulations 1982 (as amended) which come fully into operation on 4th April 1983.

Under the transitional regulations persons receiving rebates or allowances under legislation repealed by the 1982 Act are not generally required initially to make a claim under the new schemes (although authorities may require them to do so) but their rebates or allowances are adjusted to the appropriate new rate from the date when the new schemes come into operation. These regulations provide that for a transitional period ending on 30th June 1983 authorities may continue to pay rebates or allowances at the old rate, any appropriate adjustment being made when the new rate is calculated (regulation 2).

There is provision in the transitional regulations to prevent duplication of payments in respect of a person's rent or rates where he continues to be paid supplementary benefit under the Supplementary Benefits Act 1976 (c.71) which includes an amount for rent or rates; under that provision as unamended that person is not to be entitled to housing benefits until the payments of supplementary benefit cease. That provision is amended (by regulation 3 of these regulations) in the following respects.

(a) Persons to whom it applies are to be entitled to housing benefits from the start of the new schemes, but amounts paid by way of supplementary benefit towards rent and rates are taken into account in the calculation of entitlement to housing benefits.

(b) The end of the transitional period for which the provision operates for those persons is postponed from 1st June 1983 to 1st September 1983.

(c) Provision is now made not only for those who remain entitled to supplementary benefit from the start of the schemes, but for those who, although paid supplementary benefit for a time thereafter, would not have been so paid if the award to them of supplementary benefit had been revised on that date so as to take account of the introduction of the new schemes and the consequential changes in the legislation affecting supplementary benefit. In the calculation of the amount of housing benefits to which such a person is entitled for the period for which payments of supplementary benefit continue to be made, account is to be taken of the amount of those payments.

SI 1983/438
ISBN 0-11-036438-4

