STATUTORY INSTRUMENTS

2009 No. 1807

HOUSING, ENGLAND

The Housing Renewal Grants (Amendment) (England) Regulations 2009

Made - - - -	*6th July 2009*
Laid before Parliament	*14th July 2009*
Coming into force - -	*5th August 2009*

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by sections 30 and 146 of the Housing Grants, Construction and Regeneration Act 1996(**a**), and with the consent of the Treasury, makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Housing Renewal Grants (Amendment) (England) Regulations 2009 and shall come into force on 5th August 2009.

(2) These Regulations apply to applications for grants which fall to be approved on or after 5th August 2009 by local housing authorities in England.

Amendment of the Housing Renewal Grants Regulations 1996

2. The Housing Renewal Grants Regulations 1996(**b**) are amended in accordance with regulation 3.

3.—(1) In regulation (2) (interpretation)—

(a) after the definition of "community charge benefits" insert—

""contributory employment and support allowance" means an employment and support allowance entitlement to which depends on satisfying the basic conditions set out in subsection (3) of section 1 of the Welfare Reform Act 2007(**c**), and the requirements of subsection (2)(a) of that section;";

(b) after the definition of "employed earner" insert—

""employment and support allowance" means an employment and support allowance payable under Part 1 of the Welfare Reform Act 2007;";

(c) after the definition of "income-related benefit" insert—

(**a**) 1996 c. 53. The powers conferred by sections 30 and 146 of the Housing Grants, Construction and Regeneration Act 1996 are exercisable, as respects England, by the Secretary of State. As respects Wales, these powers are now vested in the Welsh Ministers. They were previously transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions Order 1999 (S.I. 1999/672; see the entry in Schedule 1 for the Housing Grants, Construction and Regeneration Act 1996. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32) the functions formerly exercisable by the National Assembly for Wales are now exercisable by the Welsh Ministers.

(**b**) S.I. 1996/2890. Relevant amending instruments are 2003/2504, S.I. 2005/3323 and S.I. 2008/1190.

(**c**) 2007 c. 5.

""income-related employment and support allowance" means an employment and support allowance entitlement to which depends on satisfying the basic conditions set out in subsection (3) of section 1 of the Welfare Reform Act 2007, and the requirements of subsection (2)(b) of that section;";

(d) after the definition of "invalid carriage or other vehicle" insert—

""jobseeker's allowance" means an allowance payable under the Jobseekers Act 1995(**a**);";

(e) after the definition of "the MacFarlane Trusts" insert—

""main phase contributory employment and support allowance" means contributory employment and support allowance where the calculation of the amount payable in respect of the claimant includes an addition under section 2(1)(b) of the Welfare Reform Act 2007;

"main phase employment and support allowance means an employment and support allowance where the calculation of the amount payable in respect of the claimant includes an addition under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007;"; and

(f) for the definition of "young person" substitute—

""young person" means a person who is—

(a) a qualifying young person within the meaning of section 142(2)(a) of the 1992 Act; and

(b) not in receipt of income support(**b**), jobseeker's allowance, incapacity benefit(**c**) or employment and support allowance;".

(2) In regulation 10 (the applicable amount), in paragraph (3), for sub-paragraph (a) substitute—

"(a) a relevant person who is in receipt of, and entitled to be in receipt of—

(i) council tax benefit(**d**);

(ii) housing benefit(**e**);

(iii) income-based jobseeker's allowance(**f**);

(iv) income-related employment and support allowance; or

(v) income support;".

(3) In regulation 19 (treatment of child care charges)(**g**)—

(a) in paragraph (1A)—

(i) omit the word "or" where it appears at the end of sub-paragraph (c); and

(ii) for sub-paragraph (d) substitute—

"(d) is credited with earnings on the grounds of incapacity for work or limited capability for work under regulation 8B of the Social Security (Credits) Regulations 1975(**h**); or

(e) is paid employment and support allowance.";

(b) in paragraph (1B) in sub-paragraph (a), after "short-term incapacity benefit" insert ", employment and support allowance";

(c) in paragraph (3)—

(i) at the end of sub-paragraph (b) insert "or the Employment and Support Allowance Regulations 2008(**i**);"

(**a**) 1995 c. 18.
(**b**) For the definition of "income support" *see* regulation 2 (interpretation) of the Housing Renewal Grants Regulations 1996 (S.I. 1996/2890) ("the principal Regulations").
(**c**) For the definition of "incapacity benefit" *see* regulation 2 of the principal Regulations.
(**d**) For the definition of "council tax benefit" *see* regulation 2 of the principal Regulations.
(**e**) For the definition of "housing benefit" *see* regulation 2 of the principal Regulations.
(**f**) For the definition of "income-based jobseeker's allowance *see* regulation 2 of the principal Regulations.
(**g**) Paragraphs (1A) and (1B) of regulation 19 were inserted by regulations 4 and 13(a)(ii) of S.I. 2005/3323.
(**h**) Regulation 8B of the Social Security (Credits) Regulations 1975 (S.I. 1975/556) was inserted by regulation 2(6) of S.I. 1996/2367.
(**i**) S.I. 2008/794.

(ii) for sub-paragraph (c) substitute—

"(c) the relevant person—

(i) is or is treated as incapable of work, and has been incapable or treated as incapable of work in accordance with the provisions of, and regulations made under, Part XIIA of the 1992 Act (incapacity for work(**a**)) for a continuous period of not less than 196 days, and for this purpose any two or more periods separated by a break of not more than 56 days shall be treated as one continuous period; or

(ii) has, or is being treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days, and for this purpose any two or more periods separated by a break of not more than 84 days shall be treated as one continuous period."

(iii) in sub-paragraph (d) after paragraph (vi) insert—

"(vii) main phase employment and support allowance;".

(4) In Schedule 1 (applicable amounts)—

(a) in sub-paragraph (1) of paragraph 1—

(i) in the column headed "*Person or couple*", below the entry at (b), insert "(c) any age and entitled to main phase employment and support allowance" ; and

(ii) in the column headed "*Amount*", below the entry at (b) insert "(c) £64.30";

(b) in sub-paragraph (2) of paragraph 1—

(i) in the column headed "*Child or young person*", below the entry at (b), insert "(c) any age and entitled to main phase employment and support allowance" ; and

(ii) in the column headed "*Amount*", below the entry at (b) insert "(c) £64.30";

(c) in paragraph 12 (additional condition for the higher pensioner and disability premiums), for sub-paragraph (1)(a)(i) and (ii) substitute—

"(i) is in receipt of one or more of the following benefits: attendance allowance(**b**), disability living allowance(**c**), the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(**d**), mobility supplement(**e**), long-term incapacity benefit under Part II of the 1992 Act, main phase contributory employment and support allowance, or severe disablement allowance under Part III of the 1992 Act, but in the case of long-term incapacity benefit, main phase employment and support allowance or severe disablement allowance only where it is paid in respect of him, or;

(ii) was in receipt of long-term incapacity benefit under Part II of the 1992 Act or main phase contributory employment and support allowance when entitlement to that benefit or allowance ceased on account of the payment of a retirement pension under the 1992 Act and, if the long-term incapacity benefit or main phase employment and support allowance was payable to his partner, the partner is still a member of the family, or";

(d) for paragraph 13A (enhanced disability premium), substitute—

(**a**) "the 1992 Act" is defined in regulation 2 of the Housing Renewal Grants Regulations 1996, as "the Social Security Contributions and Benefits Act 1992" (1992. c. 4). Part XIIA of that Act was inserted by section 5 of the Social Security (Incapacity for Work) Act 1994 (1994. c. 18).

(**b**) For the definition of "attendance allowance" *see* regulation 2 of the principal Regulations.

(**c**) For the definition of "disability living allowance" *see* regulation 2 of the principal Regulations.

(**d**) S.I. 2002/2005.

(**e**) For the definition of "mobility supplement" *see* regulation 2 of, and paragraph 7 of Schedule 3 to, the principal Regulations.

"Enhanced disability premium

13A. The condition is that—

(a) the care component of disability living allowance is payable, or but for a suspension of benefit in accordance with regulations under section 113(2) of the 1992 Act or an abatement as a consequence of hospitalisation, would be payable, at the highest rate prescribed under section 72(3) of the 1992 Act; or

(b) contributory employment and support allowance which includes the support component is payable,

in respect of the relevant person or a member of the relevant person's family, who is aged less than 60."

(5) In Schedule 2 (sums to be disregarded in the determination of earnings), for sub-paragraph (a) of paragraph 12 substitute—

"(a) is in receipt of council tax benefit, guarantee credit(**a**), housing benefit, income-based jobseeker's allowance, income-related employment and support allowance or income support; or".

(6) In Schedule 3 (sums to be disregarded in the determination of income other than earnings)—

(a) for sub-paragraph (a) of paragraph 4 substitute—

"(a) is in receipt of council tax benefit, guarantee credit, housing benefit, income-based jobseeker's allowance, income-related employment and support allowance or income support; or"; and

(b) for paragraph 6 substitute—

"**6.** Any concessionary payment made to compensate for the non-payment of—

(a) any payment specified in paragraph 5 or 8;

(b) an income-based jobseeker's allowance;

(c) income-related employment and support allowance;

(d) income support; or

(d) state pension credit."

(7) In Schedule 4 (capital to be disregarded)—

(a) in paragraph 6 for sub-paragraph (a) substitute—

"(a) is in receipt of council tax benefit, guarantee credit, housing benefit, income-based jobseeker's allowance, income-related employment and support allowance; or income support; or"; and

(b) in paragraph 9, after sub-paragraph (f) insert—

"(g) income-related employment and support allowance.".

Signed by authority of the Secretary of State for Communities and Local Government

Ian Austin
Parliamentary Under Secretary of State
Department for Communities and Local Government

1st July 2009

We consent,

Dave Watts
Tony Cunningham

6th July 2009

Two of the Lords Commissioners of Her Majesty's Treasury

(**a**) For the definition of "guarantee credit" *see* regulation 2 of the Housing Renewal Grants Regulations 1996.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend (in relation to England) the Housing Renewal Grants Regulations 1996 (S.I. 1996/2890) ("the principal Regulations"), which set out the means test for determining the amount of grant which may be paid by local housing authorities under Chapter 1 of Part 1 of the Housing Grants, Construction and Regeneration Act 1996. The principal Regulations are amended as follows:

Regulation 3(2) amends regulation 10 so that the applicable amount as regards a person receiving income-related employment and support allowance is £1.

Regulation 3(3) amends regulation 19, so that where a person is in receipt of earnings on the grounds of incapacity for work or limited capability for work, or is paid employment and support allowance, the relevant child care charges incurred by that person will be determined when calculating an applicant's means for the purpose of determining the amount of grant which may be paid.

Schedule 1 to the principal Regulations lists the amounts that apply to a relevant person (defined in regulation 5 of the principal Regulations) as part of the calculation made to determine the applicable amount (defined in regulation 10 of the principal Regulations. These amounts are then used in the calculation of grant which may be paid. Schedule 2 lists sums to be disregarded in the determination of income, Schedule 3 lists sums to be disregarded in the determination of income other than earnings, and Schedule 4 lists the capital to be disregarded in the determination of capital.

Regulation 2(4) amends Schedule 1 to include employment and support allowances in the amounts that apply. Regulation 2(5) to (7) amends Schedules 2, 3 and 4 so that income-related employment and support allowance is disregarded in the determination of earnings, income other than earnings and capital.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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