STATUTORY INSTRUMENTS

1985 No. 758

HOUSING, ENGLAND AND WALES

The Housing (Right to a Shared Ownership Lease) (Further Advances Limit) Regulations 1985

Made - - - - -	14*th May* 1985
Laid before Parliament	28*th May* 1985
Coming into Operation	19*th June* 1985

The Secretary of State for the Environment, as respects England, and the Secretary of State for Wales, as respects Wales, in exercise of the powers conferred on them by section 16(6) of the Housing and Building Control Act 1984**(a)** and of all other powers enabling them in that behalf, hereby make the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Housing (Right to a Shared Ownership Lease) (Further Advances Limit) Regulations 1985 and shall come into operation on 19th June 1985.

(2) In these regulations—

"admissible source" means a source of income of the tenant which is to be taken into account for the purposes of these regulations; and

"tenant" means a person to whom the right to a further advance belongs.

Available annual income

2. The amount to be taken into account as the tenant's available annual income under section 16 of the Housing and Building Control Act 1984 (which deals with the right to further advances) is to be calculated by taking the amount which in accordance with regulations 3 to 6 is to be taken into account as his annual income and deducting from it in accordance with regulation 7 sums related to his commitments.

Income from employment

3.—(1) This regulation applies to income from an employment.

(2) The amount to be taken into account as income to which this regulation applies is the tenant's current annual pay, namely his current pay expressed as an annual amount or, where that amount does not fairly represent his current annual pay, such amount as does.

(a) 1984 c. 29.

(3) In this regulation—

"employment" includes a part-time employment and an office but does not include a casual or temporary employment; and

"pay" includes any commission, bonus, allowance (but not an expense allowance), tip, gratuity or other payment made to the tenant in connection with his employment but does not include any benefit in kind; and references to pay are references to it before any statutory or other deduction has been made.

Income from a business

4.—(1) This regulation applies to income from a business carried on by the tenant (whether or not with any other person).

(2) The amount to be taken into account as the tenant's annual income from the business is an amount which, having regard to the latest available information, fairly represents the current annual net profit of the business or, if the tenant shares the net profit with any other person, his share of the net profit.

(3) In this regulation "business" includes any trade, profession or vocation.

Other income

5.—(1) This regulation applies to income from a source to which regulations 3 and 4 do not apply.

(2) No account shall be taken under this regulation of state benefits other than benefits under—

(*a*) sections 36 and 37 of the National Insurance Act 1965**(a)** (graduated retirement benefits);

(*b*) sections 8, 15 and 16 of the Social Security Pensions Act 1975**(b)** (widower's retirement pensions, widow's and widower's invalidity pensions); and

(*c*) the following provisions of the Social Security Act 1975**(c)** to the extent that they relate to any benefit by way of pension or other periodical payments—

sections 15, 16 and 36 (invalidity and severe disablement benefits);

sections 24 to 26 (widow's benefits);

sections 28, 29, 39 and 40 (retirement pensions);

section 57(1) (disability benefits);

sections 67(1), 69, 70, 71(1) and 72(1) (industrial death benefits); and

section 76 (industrial disease benefits).

(a) 1965 c. 51, as continued in force by regulation 3 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (S.I. 1978/393).

(b) 1975 c. 60.

(c) 1975 c. 14.

(3) The amount to be taken into account as the tenant's annual income from a source to which this regulation applies, which is not excluded from account by paragraph (2), is an amount which before any statutory or other deduction represents the tenant's current income from that source expressed as an annual amount.

(4) In this regulation "state benefits" means any benefits under the Family Income Supplements Act 1970**(a)**, the Social Security Acts 1975 to 1984**(b)**, the Child Benefit Act 1975**(c)** and the Supplementary Benefits Act 1976**(d)**.

Income from more than one source

6. If the tenant has income from more than one admissible source, the amount to be taken into account as his annual income shall be the total amount of his annual income from all admissible sources determined in accordance with the provisions of these regulations.

Deductions for commitments

7.—(1) Sums related to the tenant's commitments are to be deducted from the amount to be taken into account as his annual income if he is liable to make—

(*a*) any maintenance payments; or

(*b*) any payments under a credit agreement; or

(*c*) any payments under a court order;

and the payments are likely to continue for more than 18 months.

(2) The sums which are to be deducted are sums equal in total to the total of the annual amounts currently payable for which the conditions in paragraph (1) are satisfied.

(3) In this regulation—

"credit agreement" means a loan agreement, hire purchase agreement or other agreement for credit; and

"maintenance payment" means any payment by the tenant for the maintenance of a dependent child under the age of 16 or for the maintenance of his spouse or former spouse.

Estimates

8. The landlord, or, if the landlord is a housing association, the Housing Corporation, may accept any estimate made for the purposes of regulations 3 to 7.

(a) 1970 c. 55.

(b) 1975 c. 14, 1975 c. 60, 1977 c. 5, 1979 c. 18, 1980 c. 30, 1980 c. 39, 1981 c. 33, 1982 c. 24, 1984 c. 48.

(c) 1975 c. 61.

(d) 1976 c. 71.

Joint tenants

9. Where the right to a further advance belongs to more than one tenant, the preceding provisions of these regulations shall be applied separately to determine the amount of each tenant's available annual income.

Multipliers

10.—(1) This regulation specifies the appropriate factor to be applied as a multiplier of the tenant's available annual income to arrive at the limit imposed by section 16 of the Housing and Building Control Act 1984.

(2) If the tenant's income is the principal income, the appropriate factor in relation to his available annual income is the multiplier shown in the following Table corresponding to his age on the date of service of the notice claiming to exercise his right to acquire an additional share.

TABLE

Tenant's age on the date of service of the notice	Multiplier
Under 60	2.5
60 and over but under 65	2.0
65 and over	1.0

(3) If the tenant's income is not the principal income, the appropriate factor in relation to his available annual income is 1.

(4) Subject to paragraph (5), a tenant's income is the principal income for the purposes of this regulation if he is the only tenant with income or there is more than one tenant with income and the tenants require the landlord, or, if the landlord is a housing association, the Housing Corporation, to treat his income as the principal income.

(5) The income of only one tenant shall be treated as the principal income for the purposes of this regulation.

Patrick Jenkin,
Secretary of State for the Environment.

10th May 1985.

Nicholas Edwards,
Secretary of State for Wales.

14th May 1985.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

A tenant who buys a shared ownership lease under section 12 of the Housing and Building Control Act 1984 and has a mortgage under section 1(1)(*c*) of the Housing Act 1980 (c. 51) is entitled by section 16 of the 1984 Act to borrow further sums from the landlord or the Housing Corporation to finance the acquisition of any additional share in his dwelling. However, the total of the sum borrowed and the balance outstanding on any previous loan must not exceed the tenant's available annual income multiplied by an appropriate factor.

These regulations lay down the method of calculating the tenant's available annual income and specify appropriate factors.

The approach adopted is essentially the same as that adopted for calculating the limit on the tenant's original mortgage under the Housing (Right to Buy) (Mortgage Limit) Regulations 1980 (S.I. 1980/1423). The figures to be used are, however, those prevailing at the time that the further advance is sought, not those applicable at the time the original mortgage was granted.

Regulation 2 provides that the tenant's available annual income is to be calculated by taking his annual income and deducting from it sums related to his commitments.

Regulations 3 to 6 deal with the method of calculating the amount to be taken into account as the tenant's annual income.

Regulation 7 provides for the deductions which are to be made for the tenant's commitments.

Regulation 8 deals with the acceptance of estimates.

Regulation 9 deals with the calculation of each tenant's available annual income where there is more than one tenant.

Regulation 10 specifies the multipliers to be applied to the tenant's available annual income to arrive at the limit on the total amount which can be secured by the mortgage.

SI 1985/758
ISBN 0-11-056758-7

