
STATUTORY INSTRUMENTS

1987 No. 1971

The Housing Benefit (General) Regulations 1987

PART III

PAYMENTS IN RESPECT OF A DWELLING

Eligible housing costs

8.—(1) Subject to paragraph (2), housing benefit shall be payable in respect of the payments specified in regulations 9(1) and 10(1) (rates and rent) and a claimant's maximum housing benefit shall be calculated under Part VIII (amount of benefit) by reference to—

- (a) in the case of a rate rebate, the amount of his eligible rates determined in accordance with regulation 9(3) (rates); and
- (b) in the case of a rent rebate or allowance, the amount of his eligible rent determined in accordance with regulation 10(3) (rent).

(2) Housing benefit shall not be payable in respect of the following payments—

- (a) subject to paragraph (3), payments made by a person on income support whose applicable amount for that benefit includes an amount in respect of those payments; and
- (b) payments in respect of accommodation provided under—
 - (i) sections 21 to 24 and 26 of the National Assistance Act 1948; or
 - (ii) section 21(1) of and paragraph 1 or 2 of Schedule 8 to the National Health Service Act 1977(1) or;
 - (iii) in Scotland, section 59 of the Social Work (Scotland) Act 1968(2) where board is available to the claimant; and
- (c) payments by a person on income support who is aged under 25 and who, but for his age, would be entitled to income support calculated on the basis that he is in board and lodging accommodation.

(3) Where a person who has been awarded housing benefit in respect of a dwelling becomes entitled to income support and his applicable amount for the purpose of calculating his entitlement to that benefit includes an amount for board and lodging at that dwelling, the payments made by him in respect of that dwelling shall continue to be eligible for housing benefit for a period of four benefit weeks beginning with the benefit week after the date on which he becomes entitled to income support.

(1) 1977 c. 49; paragraphs 1 and 2 of Schedule 8 were amended by section 30 Schedule 10 Part I of the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), paragraph 2 also amended by section 148 Schedule 4 of the Mental Health Act 1983 (c. 20).

(2) 1968 c. 49.

Rates

9.—(1) The payments in respect of which housing benefit is payable in the form of a rate rebate are the payments by way of rates in respect of the dwelling which a person occupies as his home.

(2) Where a person is liable to make payments only of such a kind as are specified in regulation 10(1) (rent) in respect of the dwelling which he occupies as his home and which comprises part only of a rateable unit, the proportion of those payments equal to the proportion of the rates payable in respect of the rateable unit as a whole which appears to the appropriate authority to be referable to his dwelling shall be treated as payments by way of rates for the purposes of paragraph (1).

(3) Subject to any apportionment in accordance with paragraphs (4) and (5) and to regulation 11 (restrictions on unreasonable payments), the amount of a person's eligible rates shall be the amount of the payments by way of rates referred to in paragraph (1), or, as the case may be, (2).

(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 shall count as eligible rates for the purposes of these Regulations 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(3) (apportionment of annual value of premises).

(5) Where more than one person is liable to make payments by way of rates 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) In a case to which regulation 6(3) applies (circumstances in which a person is to be treated as liable to make payments in respect of a dwelling), the claimant's eligible rates shall be treated as being of an amount equal to his eligible rates immediately prior to the date on which the rating authority should have made a rate.

Rent

10.—(1) Subject to the following provisions of this regulation, the payments in respect of which housing benefit is payable in the form of a rent rebate or allowance are the following periodical payments which a person is liable to make in respect of the dwelling which he occupies as his home—

- (a) payments of, or by way of, rent;
- (b) payments in respect of a licence or permission to occupy the dwelling;
- (c) payments by way of mesne profits or, in Scotland, violent profits;
- (d) payments in respect of, or in consequence of, use and occupation of the dwelling;
- (e) payments of, or by way of, service charges payment of which is a condition on which the right to occupy the dwelling depends;
- (f) mooring charges payable for a houseboat;
- (g) where the home is a caravan or a mobile home, payments in respect of the site on which it stands;
- (h) any contribution payable by a person resident 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(4) (register of charities) or

(3) 1980 c. 45.

(4) 1960 c. 58; subsections (8) and (10) of section 4 were amended by section 1(4) and (5) and Schedule 2 Parts I and II of the Education Act 1973 (c. 16).

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;

- (i) payments under a rental purchase agreement, that is to say an agreement for the purchase of a dwelling under which the whole or part of the purchase price is to be paid in more than one instalment and the completion of the purchase is deferred until the whole or a specified part of the purchase price has been paid; and
- (j) where, in Scotland, the dwelling is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1955⁽⁵⁾, the payment in respect of the croft land.

(2) A rent rebate or, as the case may be, a rent allowance shall not be payable in respect of the following periodical payments:—

- (a) payments under a long tenancy except a shared ownership tenancy granted by a housing association or a housing authority;
- (b) payments under a co-ownership scheme;
- (c) payments by an owner;
- (d) payments under a hire purchase, credit sale or conditional sale agreement except to the extent the conditional sale agreement is in respect of land; and
- (e) payments by a Crown tenant.

(3) Subject to any apportionment in accordance with paragraphs (4) and (5) and to regulations 11 and 12 (restrictions on unreasonable payments and rent increases), the amount of a person's eligible rent shall be the aggregate of such payments specified in paragraph (1) as he is liable to pay less—

- (a) except where he is separately liable for rates or charges for water, sewerage or allied environmental services, an amount determined in accordance with paragraph (6); and
- (b) where payments include service charges which are wholly or partly ineligible, an amount in respect of the ineligible charges determined in accordance with Schedule 1.

(4) Where the payments specified in paragraph (1) are payable in respect of accommodation which consists partly of residential accommodation and partly of other accommodation, only such proportion thereof as is referable to the residential accommodation shall count as eligible rent for the purposes of these Regulations.

(5) Where more than one person is liable to make payments in respect of a dwelling, the payments specified in paragraph (1) shall be apportioned for the purpose 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.

(6) The amount of the deduction referred to in paragraph (3) shall be—

- (a) in respect of rates—
 - (i) if the dwelling occupied by the claimant is a single rateable unit, the amount of the rates payable in respect of the rateable unit as a whole, or
 - (ii) if the dwelling comprises part only of a rateable unit, the amount treated as a payment by way of rates by virtue of regulation 9(2) (rates);
- (b) in respect of charges for water, sewerage or allied environmental services—
 - (i) except in a case to which head (iii) applies, if the dwelling occupied by the claimant is a single rateable unit, the amount of the charges,
 - (ii) in any other case except one to which head (iii) applies, the proportion of those charges in respect of the rateable unit of which the dwelling is part, equal to the

(5) 1955 c. 21; section 3(1) was amended by section 14 of the Crofting Reform (Scotland) Act 1976 (c. 21).

proportion of the rates payable in respect of the rateable unit as a whole treated as payments by way of rates for which the claimant is liable under regulation 9(2) (rates), or

- (iii) where the charges vary in accordance with the amount of water actually used, the amount which the appropriate authority considers to be fairly attributable to water, sewerage and allied environmental services, having regard to the actual or estimated consumption of the claimant.

(7) In this regulation and Schedule 1–

“service charges” means periodical payments for services, whether or not under the same agreement as that under which the dwelling is occupied, or whether or not such a charge is specified as separate from or separately identified within other payments made by the occupier in respect of the dwelling; and

“services” means services performed or facilities (including the use of furniture) provided for, or rights made available to, the occupier of a dwelling.

Restrictions on unreasonable payments

11.—(1) Where a rent is registered in respect of a dwelling under Part IV or V of the Rent Act 1977⁽⁶⁾ or Part IV or VII of the Rent (Scotland) Act 1984⁽⁷⁾ and the rent recoverable from a claimant is limited to the rent so registered, his eligible rent determined in accordance with regulation 10 (rent) shall not exceed the rent so registered.

(2) Subject to paragraphs (3) and (4), where the appropriate authority considers–

- (a) that a claimant 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) having regard in particular to suitable alternative accommodation occupied by a household of the same size; or
- (b) that the rates payable for the claimant’s dwelling are unreasonably high by comparison with the rates payable in respect of suitable alternative accommodation elsewhere; or
- (c) that the rent payable for his dwelling is unreasonably high by comparison with the rent payable in respect of suitable alternative accommodation elsewhere,

the authority may treat the claimant’s eligible rates, or, as the case may be, eligible rent, as reduced by such amount as it considers appropriate having regard in particular to the cost of suitable alternative accommodation elsewhere and the claimant’s maximum housing benefit shall be calculated by reference to the eligible rates or eligible rent as so reduced.

(3) If any person to whom paragraph (7) applies–

- (a) is aged 60 or over; or
- (b) is incapable of work for the purposes of one or more of the provisions of the Social Security Act, or Part I of the Social Security and Housing Benefits Act 1982⁽⁸⁾ or Part II of the Act; or
- (c) is a member of the same household as a child or young person for whom he or his partner is responsible,

no deduction shall be made under paragraph (2) unless suitable cheaper alternative accommodation is available and the authority considers that, taking into account the relevant factors, it is reasonable to expect the claimant to move from his present accommodation.

⁽⁶⁾ 1977 c. 42.

⁽⁷⁾ 1984 c. 58; section 63 amended by the Housing (Consequential Provisions) Act 1985 (c. 71) Schedule 2 paragraph 59.

⁽⁸⁾ 1982 c. 24.

(4) Without prejudice to the operation of paragraph (3), but subject to paragraph (5), where the appropriate authority is satisfied that a person to whom paragraph (7) applies was able to meet the financial commitments for his dwelling when they were entered into, no deduction shall be made under paragraph (2) during the first 13 benefit weeks of the claimant's benefit period.

(5) Paragraph (4) shall not apply where a claimant was previously entitled to benefit in respect of a benefit period which fell wholly or partly less than 52 weeks before the commencement of his current benefit period.

(6) For the purposes of this regulation—

- (a) in deciding what is suitable alternative accommodation, the appropriate authority shall take account of the nature of the alternative accommodation and the facilities provided having regard to the age and state of health of all the persons to whom paragraph (7) applies and, in particular, where a claimant's present dwelling is occupied with security of tenure, accommodation shall not be treated as suitable alternative accommodation unless that accommodation will be occupied on terms which will afford security of tenure reasonably equivalent to that presently enjoyed by the claimant; and
- (b) the relevant factors in paragraph (3) are the effects of a move to alternative accommodation on—
 - (i) the claimant's prospects of retaining his employment; and
 - (ii) the education of any child or young person referred to in paragraph (3)(c) if such a move were to result in a change of school.

(7) This paragraph applies to the following persons—

- (a) the claimant;
- (b) any member of his family;
- (c) if the claimant is a member of a polygamous marriage, any partners of his and any child or young person for whom he or a partner is responsible and who is a member of the same household;
- (d) subject to paragraph (8), any relative of the claimant or his partner who occupies the same dwelling as the claimant, whether or not they reside with him.

(8) Paragraph (7)(d) shall only apply to a relative who has no separate right of occupation of the dwelling which would enable him to continue to occupy it even if the claimant ceased his occupation of it.

Restrictions on rent increases

12. Where a claimant's eligible rent is increased during a benefit period, the appropriate authority may, if it considers either—

- (a) that the increase is unreasonably high having regard in particular to the level of increases for suitable alternative accommodation, or
- (b) in the case of an increase which takes place less than 12 months after the date of the previous increase, that the increase is unreasonable having regard to the length of time since that previous increase,

treat the eligible rent as reduced either by the full amount of the increase or, if it considers that a lesser increase was reasonable in all the circumstances, by the difference between the full amount of the increase and the increase that is reasonable having regard in particular to the level of increases for suitable alternative accommodation, and the claimant's maximum housing benefit shall be calculated by reference to the eligible rent as so reduced.

Status: *This is the original version (as it was originally made).*
