

1988 No. 458

HOUSING, ENGLAND AND WALES
HOUSING, SCOTLAND

**The Housing Benefit (Transitional) Amendment
Regulations 1988**

<i>Made</i> - - - -	<i>9th March 1988</i>
<i>Laid before Parliament</i>	<i>10th March 1988</i>
<i>Coming into force</i> -	<i>31st March 1988</i>

The Secretary of State for Social Services, in exercise of the powers conferred on him by sections 84(1) and 89(1) of the Social Security Act 1986(a) and of all other powers enabling him in that behalf, by this instrument, which contains only provisions consequential on sections 20, 28, 29 and 30 of that Act in their application to housing benefit and Regulations made under those sections and is made before the end of a period of 12 months from the commencement of those sections, makes the following Regulations:-

Citation and commencement

1. These Regulations may be cited as the Housing Benefit (Transitional) Amendment Regulations 1988 and shall come into force on 31st March 1988.

Insertion of regulation 4A into the Housing Benefit (Transitional) Regulations 1987

2. After regulation 4 of the Housing Benefit (Transitional) Regulations 1987(b) (transitional provisions for the calculation of benefit) there shall be inserted the following regulation-

“Payments on account of housing benefit

4A.—(1) In the circumstances specified in paragraph (2), payments on account of housing benefit may be made by an appropriate authority for any period ending on or before 30th June 1988 where in accordance with these Regulations-

- (a) a claim for housing benefit under the new scheme is made, or is treated as made, under regulation 2(1) or 2(2)(b) (transitional provision for claims); or
- (b) a claim for a rebate or an allowance is made under an old scheme under regulation 2(2)(a) or is calculated in accordance with the provisions of an old scheme under regulation 2(4).

(2) A payment may be made under paragraph (1) where the claim has not been determined and it is impracticable for the appropriate authority to determine that claim within 14 days of the day on which it is made or treated as made and that impracticability does not arise out of the failure of the claimant, without good cause,

(a) 1986 c.50; section 84(1) is cited because of the meaning assigned to the word “regulations”.
(b) S.I. 1987/1972.

to furnish such information, certificates, documents or evidence as the authority requires and has requested.

(3) Any payment on account of housing benefit made under paragraph (1) shall be of such amount as the appropriate authority considers reasonable having regard to such information as it has taken into account in assessing the claimant's circumstances.

(4) Where a payment is made under paragraph (1) a notice shall be served on the claimant to the effect that if, on subsequent determination of the claim, the claimant is not entitled to a rebate or an allowance under an old scheme or to housing benefit under the new scheme, or is entitled to an amount of such a rebate, allowance or benefit which is less than the amount of the payment on account, the whole of the amount paid on account or the excess of that amount over the entitlement to the rebate, allowance or benefit, as the case may be, shall be recoverable.

(5) Without prejudice to any other method of recovery, any amount which is recoverable under paragraph (4) may be recovered by deduction from any housing benefit payable under the new scheme.

(6) An amount which is recoverable under paragraph (4) may be recovered from any person from whom recovery may be sought under regulation 101 of the General Regulations (person from whom recovery may be sought) as though it were an overpayment of housing benefit under the new scheme.

(7) Where on a subsequent determination the amount of rebate or allowance under an old scheme or the amount of housing benefit under the new scheme, as the case may be, is more than the amount paid on account under paragraph (1), future payments of housing benefit under the new scheme shall be increased to take account of the underpayment."

Modification of the Social Security Act 1986

3. Section 30(2)(a) of the Social Security Act 1986 (housing benefit finance) shall be modified by inserting after the words "housing benefit" the words "and any rebate or allowance within the meaning of the Social Security and Housing Benefits Act 1982".

Signed by authority of the Secretary of State for Social Services

9th March 1988

Michael Portillo
Parliamentary Under-Secretary of State,
Department of Health and Social Security.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, by amending the Housing Benefit (Transitional) Regulations 1987 and modifying the Social Security Act 1986, make further transitional provision in connection with the statutory scheme (the "new scheme") for the granting of rate rebates, rent rebates and rent allowances introduced by the Social Security Act 1986 and the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971). This scheme is to be administered by local, rating and housing authorities ("authorities").

Regulation 2 enables authorities to make payments on account of entitlement to rebates and allowances in certain circumstances where it is not practical to determine a claim within 14 days. Payments under this provision may be made only in respect of periods ending on or before 30 June 1988.

Regulation 3 modifies the Social Security Act 1986 so as to enable subsidy to be paid in respect of rebates and allowances which fall to be granted under schemes replaced by the new scheme.

These Regulations contain only provisions consequential on sections 20, 28, 29 and 30 of the Social Security Act 1986, and the Housing Benefit (General) Regulations 1987 and are made before the expiry of 12 months from the commencement of those provisions: they are accordingly exempt, by section 61(5) of the Social Security Act 1986, from reference to the Social Security Advisory Committee and have not been so referred.