
STATUTORY INSTRUMENTS

1989 No. 566

**HOUSING, ENGLAND AND
WALESHOUSING, SCOTLAND**

**The Housing Benefit (General)
Amendment No. 2 Regulations 1989**

Made - - - - - *28th March 1989*
Laid before Parliament *30th March 1989*
Coming into force - - - *1st April 1989*

The Secretary of State for Social Security in exercise of powers conferred by sections 20(1)(c), (8) and (12)(g), 29(3), 51(1)(h) and (q) and 84(1) of the Social Security Act 1986(1) and section 166(1) to (3A) of the Social Security Act 1975(2) and of all other powers enabling him in that behalf after consultation with organisations appearing to him to be representative of authorities concerned(3) and after agreement by the Social Security Advisory Committee that proposals to make these Regulations in so far as they are made under powers in section 51(1) of the Social Security Act 1986 should not be referred to it(4), by this instrument which is otherwise made before the end of a period of 12 months from the commencement of the enactments under which it is made, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit (General) Amendment No. 2 Regulations 1989 and shall come into force on 1st April 1989.

(2) In these Regulations “the General Regulations” means the Housing Benefit (General) Regulations 1987(5).

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- (1) 1986 c. 50; section 51(1)(h) was extended by section 121(6) of the Housing Act 1988 (c. 50) and section 70(5) of the Housing (Scotland) Act 1988 (c. 43); section 84(1) is an interpretation provision and is cited because of the meanings assigned to the words “prescribed” and “regulations”.
- (2) 1975 c. 14; section 166(3A) was inserted by section 62(1) of the Social Security Act 1986 and section 166(1) to (3A) was applied by section 83(1) of that Act.
- (3) See section 61(7) of the Social Security Act 1986.
- (4) See section 10(2)(b) of the Social Security Act 1980 (c. 30); section 10 was amended by paragraph 98 of Schedule 10 to the Social Security Act 1986.
- (5) S.I.1987/1971, to which there are amendments not relevant to these Regulations.

Amendment of regulation 11 of the General Regulations

2. In regulation 11 of the General Regulations (restrictions on unreasonable rents)–

(a) after paragraph (1) there shall be inserted the following paragraph–

“(1A) Where a rent has been determined by a rent assessment committee in respect of a dwelling under Part I of the Housing Act 1988⁽⁶⁾ or Part II of the Housing (Scotland) Act 1988⁽⁷⁾, the claimant’s eligible rent determined in accordance with regulation 10 shall not exceed the rent determined by the committee.”;

(b) in paragraph (2)–

(i) for the reference “(3) and (4)” there shall be substituted the reference “(3) to (4)”;

(ii) at the beginning of sub-paragraphs (a) and (c) there shall be inserted the words “whether by reference to a determination or re-determination made by a rent officer in exercise of a function conferred on him by an order under section 121 of the Housing Act 1988 or, as the case may be, section 70 of the Housing (Scotland) Act 1988, or otherwise”;

(c) after paragraph (3) there shall be inserted the following paragraphs–

“(3A) No deduction shall be made under paragraph (2) for a period of 12 months from the date of death of any person to whom paragraph (7) applied or, had a claim been made, would have applied, if the dwelling which the claimant occupies is the same as that occupied by him at that date except where the deduction began before the death occurred.

(3B) For the purposes of paragraph (3A), a claimant shall be treated as occupying the dwelling if paragraph (8) of regulation 5 (circumstances in which a person is to be treated as occupying a dwelling) is satisfied and for that purpose sub-paragraph (b) of that paragraph shall be treated as if it were omitted.”.

Amendment of regulation 12 of the General Regulations

3. In regulation 12 of the General Regulations (restrictions on rent increases)–

(a) at the beginning there shall be inserted the words “Subject to paragraph (2),”; and after the words “if it considers” there shall be inserted the words “, whether by reference to a determination or re-determination made by a rent officer in exercise of a function conferred on him by an order under section 121 of the Housing Act 1988 or, as the case may be, section 70 of the Housing (Scotland) Act 1988, or otherwise,”;

(b) at the end of that regulation there shall be added the following paragraphs–

“(2) No deduction shall be made under this regulation for a period of 12 months from the date of death of any person to whom paragraph (7) of regulation 11 (restrictions on unreasonable payments) applied or, had a claim been made, would have applied, if the dwelling which the claimant occupies is the same as that occupied by him at that date except where the deduction began before the death occurred.

(3) For the purposes of paragraph (2), a claimant shall be treated as occupying the dwelling if paragraph (8) of regulation 5 (circumstances in which a person is to be treated as occupying a dwelling) is satisfied and for that purpose sub-paragraph (b) of that paragraph shall be treated as if it were omitted.”.

⁽⁶⁾ 1988 c. 50.

⁽⁷⁾ 1988 c. 43.

Amendment of regulation 82 of the General Regulations

4. In regulation 82 of the General Regulations (procedure on further review) after paragraph (1) there shall be inserted the following paragraph—

“(1A) Notwithstanding paragraph (1) where the appropriate authority has applied for a re-determination by a rent officer in exercise of a function conferred on him by an order under section 121 of the Housing Act 1988 or, as the case may be, section 70 of the Housing (Scotland) Act 1988 the Review Board may, if it considers it appropriate in the circumstances, hold the hearing after the re-determination but as soon as is reasonably practicable thereafter.”.

Amendment of regulation 95 of the General Regulations

5. In regulation 95 of the General Regulations (withholding of benefit) after paragraph (6) there shall be added the following paragraph—

“(7) Where a rent officer has notified an authority that he has been denied entry to the dwelling for the purpose of making a determination or re-determination in exercise of a function conferred on him by an order under section 121 of the Housing Act 1988 or, as the case may be, section 70 of the Housing (Scotland) Act 1988, an authority may withhold payment of a rent allowance, if—

- (a) in a case where entry has been denied by the claimant, payment would have been made either to the claimant or directly to his landlord; or
- (b) in a case where entry has been denied by the landlord, direct payment would have been made to the landlord,

and for so long as the rent officer continues to be denied entry to the dwelling.”.

Insertion of Part XIV into the General Regulations

6. After Part XIII of the General Regulations (overpayments) there shall be inserted the following Part—

“PART XIV
miscellaneous

Evidence and information required by rent officers

106. The appropriate authority shall furnish as soon as is reasonably practicable such information or evidence relating to a claimant and his accommodation obtained by it in exercise of its functions relating to housing benefit as may be required by a rent officer for the purpose of a function conferred on him by an order under section 121 of the Housing Act 1988 or, as the case may be, section 70 of the Housing (Scotland) Act 1988.”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

28th March 1989

Peter Lloyd
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Housing Benefit (General) Regulations 1987.

They provide for a claimant's eligible rent not to exceed the rent fixed by a rent assessment committee and for authorities to have regard to determinations made by rent officers in determining eligible rent (regulations 2(a) and (b) and 3(c)); and prohibit an authority from reducing eligible rent for a period of 12 months from the death of a member of the household (regulation 2(c) and 3(b)).

They also provide for payment of a rent allowance to be withheld where a rent officer is denied entry to the dwelling (regulation 5); for an authority to furnish rent officers with information relating to the claimant and his accommodation (regulation 6); and for hearings of a Review Board to be deferred pending a re-determination by a rent officer (regulation 4).

These Regulations, except in so far as they are made under the powers in section 51 of the Social Security Act 1986, are made before the expiry of 12 months from the commencement of the provisions under which they are made; they are accordingly exempt by section 61(5) of that Act from reference to the Social Security Advisory Committee and have not been so referred.