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STATUTORY INSTRUMENTS

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**1992 No. 432**

**HOUSING, ENGLAND AND WALES  
HOUSING, ENGLAND AND WALES  
SCOTLAND SOCIAL SECURITY**

**The Housing Benefit and Community Charge Benefits  
(Miscellaneous Amendments) Regulations 1992**

*Made* - - - - - *2nd March 1992*

*Laid before Parliament* *9th March 1992*

*Coming into force*  
*in accordance with*  
*regulation 1(1)*

The Secretary of State for Social Security in exercise of powers conferred by sections 20(1)(c) and (d), 20(12)(k), 21(6)(b), 22(8) and (9), 29(1) to (4), 30(2B), 31(1), 31C(3), 31D(1), 31G(1), 51(1)(h), 51A(1)(h) and (i) 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 the authorities concerned(3) and after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it(4), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Housing Benefit and Community Charge Benefits (Miscellaneous Amendments) Regulations 1992 and shall come into force—

- (a) for the purposes of this regulation and regulations 7, 18 and 30 on 30th March 1992;
- (b) for the purposes of regulations 2(a), 8, 14, 15 and 17—

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(1) 1986 c. 50; paragraph (1)(d) was inserted in section 20 of the 1986 Act by the Local Government Finance Act 1988 (c. 41), Schedule 10, paragraph 2(2) (the 1988 Act); subsection 30(2B) was inserted by section 15(1) of the Social Security Act 1989 (c. 24). Sections 31C, 31D and 31G were inserted in the 1986 Act by the 1988 Act, Schedule 10, paragraph 6; section 51A was inserted by the 1988 Act, Schedule 10, paragraph 8 and 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; subsection (3) was amended by the Social Security Act 1989 (c. 24), section 31(1) and Schedule 8, paragraph 10; subsection (3A) was inserted by section 62 of the Social Security Act 1986 and section 166(1) to (3A) is applied by section 83(1) of that Act.

(3) See section 61(7) of the Social Security Act 1986; section 61(7) was amended by the Local Government Finance Act 1988 (c. 41), Schedule 10, paragraph 10.

(4) See section 61(1)(b) and (10) of the Social Security Act 1986. The Social Security Act 1989 (c. 24), Schedule 8, added a definition of “regulations” to section 61(10) of the Act of 1986.

- (i) to the extent that they relate to any case where rent is payable at intervals of one month or any other interval which is not a week or a multiple thereof, on 1st April 1992;
  - (ii) in any other case, on 6th April 1992;
  - (c) for the purposes of regulations 2(b), 3 to 6, 9, 10, 11(1), (3), (4) and (5), 13, 16, 19(b), 20 to 23, 26, 27, 28(1), (3), (4) and (5), 33 and 35 on 6th April 1992;
  - (d) for the purposes of regulations 11(2) and 28(2) on 5th October 1992;
  - (e) for the purposes of regulations 12, 19(a), 24, 25, 29, 31, 32 and 34 on 1st April 1992.
- (2) In these Regulations—
- (a) “the 1987 Regulations” means the Housing Benefit (General) Regulations 1987(5);
  - (b) “the 1989 Regulations” means the Community Charge Benefits (General) Regulations 1989(6).

### **Amendment of regulation 2 of the 1987 Regulations**

2. In regulation 2(1) of the 1987 Regulations (interpretation)(7)—
- (a) after the definition of “student” there shall be inserted the following definition—
    - ““supplementary benefit” means a supplementary pension or allowance under section 1 or 4 of the Supplementary Benefits Act 1976(8);”;
  - (b) in the definition of “training allowance”—
    - (i) in paragraph (a) for the words “Training Agency” there shall be substituted the words “Secretary of State”;
    - (ii) in paragraph (c) for the words “that Agency” there shall be substituted the words “the Secretary of State”.

### **Amendment of regulation 46 of the 1987 Regulations**

3. In regulation 46 of the 1987 Regulations (interpretation) in the definition of “student” for the words ““student” means a person” there shall be substituted the words ““student” means a person, other than a person in receipt of a training allowance,”.

### **Amendment of regulation 53 of the 1987 Regulations**

4.—(1) Regulation 53 of the 1987 Regulations (calculation of grant income) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “paragraph (2)” there shall be substituted the words “paragraphs (2) and (2A)”.

(3) After paragraph (2) there shall be inserted the following paragraph—

“(2A) Where in pursuance of an award a student is in receipt of a grant in respect of maintenance under regulation 17(b) of the Education (Mandatory Awards) Regulations 1991 (payments)(9) there shall be excluded from his grant income a sum equal to the amount specified in paragraph 7(4) of Schedule 2 to those Regulations (disregard of travel costs)

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(5) S.I.1987/1971; relevant amending instruments are S.I. 1988/661 and 1971, 1990/127, 546, 671, 1549 and 1775, and 1991/387 and 1175.

(6) S.I. 1989/1321; relevant amending instruments are S.I. 1990/834, 835, 1773 and 1991/387 and 1175.

(7) Relevant amending instruments are S.I. 1990/546 and 1991/387.

(8) 1976 c. 71.

(9) S.I. 1991/1838.

being the amount to be disregarded in respect of travel costs in the particular circumstances of his case.”.

#### **Amendment of regulation 54 of the 1987 Regulations**

5. In regulation 54(3) of the 1987 Regulations (calculation of covenant income where a contribution is assessed) for the words from “regulation 53(2)(h)” to the end of the paragraph there shall be substituted the following words—

“regulation 53(2)(h) (calculation of grant income) falls short of the amount specified in paragraph 7(4)(i) of schedule 2 to the education (mandatory awards) regulations 1991 (travel expenditure).”.

#### **Amendment of regulation 55 of the 1987 Regulations**

6. In regulation 55(1)(c) of the 1987 Regulations (covenant income where no grant income or no contribution is assessed) for the words “regulation 53(2)(g) and (h)” there shall be substituted the words “regulation 53(2)(g) and (2A)”.

#### **Amendment of regulation 68 of the 1987 Regulations**

7.—(1) Regulation 68 of the 1987 Regulations (date on which change of circumstances is to take effect) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “paragraphs (2) to (4)” there shall be substituted the words “paragraphs (2) to (5)”.

(3) For paragraph (3) there shall be substituted the following paragraph—

“(3) Where the change of circumstances is an amendment of these Regulations that change, subject to regulation 69(7), shall take effect as follows—

(a) where the amendment is made by an order under section 63 of the Act (annual up-rating of benefits)—

(i) in a case in which the claimant’s weekly amount of eligible rent falls to be calculated in accordance with regulation 69(2)(b) (calculation of weekly amounts), from 1st April;

(ii) in any other case, from the first Monday in April, in the year in which that order comes into force;

(b) in respect of any other amendment, from the date on which the amendment of these Regulations comes into force in the particular case.”.

(4) In paragraph (4) for the words “paragraphs (1) to (3)” there shall be substituted the words “paragraphs (1), (2) or (3)(a)(i) or (b)”.

(5) After paragraph (4) there shall be added the following paragraph—

“(5) Where, during a benefit week commencing on the first Monday in April—

(a) a change of circumstances takes effect in accordance with paragraph (3)(a)(ii),

(b) one or more changes of circumstances occur to which paragraph (1) applies, and

(c) no other change of circumstances occurs to which this regulation applies, any change of circumstances to which paragraph (1) applies and which occurs in that benefit week shall take effect from the first day of that benefit week.”.

### **Amendment of regulation 73 of the 1987 Regulations**

**8.**—(1) Regulation 73 of the 1987 Regulations (evidence and information)(**10**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words from “which is disregarded” to the end there shall be substituted the words “to which paragraph (3) applies”.

(3) After paragraph (2) there shall be added the following paragraph—

“(3) This paragraph applies to any of the following payments—

(a) a payment which is—

(i) disregarded under paragraph 21 of Schedule 4 (income in kind) or paragraph 32 of Schedule 5(**11**)(payments in kind made by a charity or under certain trusts), and

(ii) made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust or the Macfarlane (Special Payments) (No. 2) Trust;

(b) a payment which is disregarded under paragraph 34 of Schedule 4 or paragraph 23 of Schedule 5 (payments made under certain trusts)(**12**), other than a payment made under the Independent Living Fund.”.

### **Amendment of regulation 77 of the 1987 Regulations**

**9.** In regulation 77 of the 1987 Regulations (notification of determinations) there shall be added at the end the following paragraphs—

“(4) A person to whom an authority sends or delivers a notification of determination may request in writing the authority to provide a written statement setting out the reasons as to its determination of any matter set out in the notice.

(5) The written statement referred to in paragraph (4) shall be sent to the person requesting it within 14 days or as soon as is reasonably practicable thereafter.”.

### **Amendment of regulation 78 of the 1987 Regulations**

**10.** In regulation 78(3) of the 1987 Regulations (time and manner of making notifications, requests or representations)—

(a) the words “, 80 (requests for statement of reasons)” shall be omitted; and

(b) for the words “a request for a statement or representations” there shall be substituted the words “representations or a request for a further review”.

### **Amendment of regulation 79 of the 1987 Regulations**

**11.**—(1) Regulation 79 of the 1987 Regulations (review of determinations) shall be amended in accordance with the following provisions of this regulation.

(2) At the end of paragraph (2) there shall be added the words “within 14 days of receiving the representations or as soon as reasonably practicable thereafter”.

(3) In paragraph (3) for the words “paragraph (4)” there shall be substituted the words “paragraph (5)”.

(4) In paragraph (4) for the words “regulation 80” there shall be substituted the words “regulation 77(4)”.

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(10) Regulation 73 was amended by S.I. 1988/661, 1990/127 and 1991/1175.

(11) Paragraph 32 of Schedule 5 was added by S.I. 1989/1971 and amended by S.I. 1990/127 and 1991/1175.

(12) Paragraph 34 of Schedule 4 and paragraph 23 of Schedule 5 were substituted by S.I. 1991/1175.

(5) In paragraph (6) for the words “77 to 80” there shall be substituted the words “77 to 79”.

#### **Amendment of regulation 97 of the 1987 Regulations**

**12.** In regulation 97(2) of the 1987 Regulations (offsetting) for the words “a recoverable overpayment under regulation 99 (recoverable overpayments)” there shall be substituted the words “an overpayment within the meaning of regulation 98 (meaning of overpayment)”.

#### **Amendment of Schedule 1A to the 1987 Regulations**

**13.** In Schedule 1A to the 1987 Regulations (excluded tenancies)(**13**) after paragraph 11 there shall be inserted the following paragraph—

- “**11A.**—(1) Subject to sub-paragraph (2) this paragraph applies to a tenancy—
- (a) in respect of a dwelling comprised in land which has been disposed of under section 32 of the Housing Act 1985(**14**);
  - (b) in respect of a dwelling comprised in land which has been disposed of with the consent required by section 43 of the Housing Act 1985;
  - (c) in respect of which the fee simple estate has been acquired, under the right conferred by part iv of the housing act 1988(**15**), otherwise than from a housing action trust within the meaning of Part III of that Act; or
  - (d) in respect of a dwelling disposed of under the New Towns (Transfer of Housing Stock) Regulations 1990(**16**) to a person who is an approved person for the purposes of disposal under those Regulations.
- (2) This paragraph shall not apply to a tenancy to which sub-paragraph (1) refers if—
- (a) there has been an increase in rent since the disposal or acquisition, as the case may be, occurred; and
  - (b) the local authority stated in the application for determination that the circumstances set out in regulation 11(2)(a) or (c) (restrictions on unreasonable payments)(**17**) exist.”.

#### **Amendment of Schedule 4 to the 1987 Regulations**

**14.** In Schedule 4 to the 1987 Regulations (sums to be disregarded in the calculation of income other than earnings)—

- (a) for paragraph 30 there shall be substituted the following paragraph—

“**30.** Any social fund payment made pursuant to Part III of the Act.”;
- (b) after paragraph 47 there shall be inserted the following paragraphs—

“**48.** Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.

**49.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944(**18**) or

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(13) Schedule 1A was inserted in the 1987 Regulations by S.I. 1990/546.

(14) 1985 c. 68.

(15) 1988 c. 50.

(16) S.I. 1990/1700; amended by S.I. 1990/2366 and 1991/1281.

(17) Regulation 11 was amended by S.I. 1989/566, 1990/546 and 1991/235.

(18) 1944 c. 10.

in accordance with arrangements made under section 2 of the Employment and Training Act 1973<sup>(19)</sup> to assist disabled persons to obtain or retain employment despite their disability.”.

#### **Amendment of Schedule 5 to the 1987 Regulations**

**15.** In Schedule 5 to the 1987 Regulations (capital to be disregarded)—

(a) for paragraph 19 there shall be substituted the following paragraph—

“**19.** Any social fund payment made pursuant to Part III of the Act.”;

(b) after paragraph 41 there shall be inserted the following paragraphs—

“**42.** Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.

**43.** Any payment (other than a training allowance, or a training bonus under section 2 of the Employment and Training Act 1973) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944<sup>(20)</sup> or in accordance with arrangements made under section 2 of the Employment and Training Act 1973<sup>(21)</sup> to assist disabled persons to obtain or retain employment despite their disability.

**44.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958<sup>(22)</sup> to homeworkers assisted under the Blind Homeworkers' Scheme.”.

#### **Amendment of Schedule 6 to the 1987 Regulations**

**16.** In Schedule 6 to the 1987 Regulations (matters to be included in the notice of determination) in paragraph 2 for the words “regulation 80” there shall be substituted the words “regulation 77(4)”.

#### **Amendments of the 1987 Regulations consequential upon the Children Act 1989**

**17.** The provisions of the 1987 Regulations shall be further amended in accordance with Schedule 1 to these Regulations, which makes changes consequential upon the Children Act 1989<sup>(23)</sup>.

#### **Amendment of regulation 2 of the Housing Benefit (Supply of Information) Regulations 1988**

**18.** In regulation 2(1) of the Housing Benefit (Supply of Information) Regulations 1988 (information to be supplied by the Secretary of State to an authority)<sup>(24)</sup>—

(a) for sub-paragraph (c) there shall be substituted the following sub-paragraph—

“(c) where a claimant’s claim for income support has been disallowed, the reason for the disallowance;”;

(b) in sub-paragraph (e) there shall be added at the end the words—

“and the date on which the payment of income support ceased or is to cease;”;

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<sup>(19)</sup> 1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19).

<sup>(20)</sup> 1944 c. 10.

<sup>(21)</sup> 1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19).

<sup>(22)</sup> 1958 c. 33.

<sup>(23)</sup> 1989 c. 41.

<sup>(24)</sup> S.I. 1988/662, to which there are amendments not relevant to these Regulations.

- (c) for sub-paragraph (g) there shall be substituted the following sub-paragraphs—
- “(g) the name, date of birth and address of any claimant who is in receipt of income support and of any partner of his;
  - (h) the national insurance number in respect of any claimant who is in receipt of income support and of any partner of his;
  - (i) where a claimant or any partner of his is in receipt of income support and becomes liable for the first time to make payments in respect of the dwelling which he occupies as his home, the date on which a claim for housing benefit by the claimant or his partner is received by the appropriate DSS office;
  - (j) where—
    - (i) a claimant in receipt of income support or any partner of his reports to an appropriate DSS office that another person is residing or has ceased to reside with the claimant, and
    - (ii) that person is a non-dependent for the purposes of regulation 3 of the Housing Benefit Regulations (definition of non-dependant)(**25**), the name and date of birth of that person;
  - (k) any further information required for the purpose of—
    - (i) the calculation and recovery of overpayments of housing benefit,
    - (ii) the investigation and prevention of offences relating to housing benefit,
    - (iii) any proceedings for an offence under the benefit Acts relating to housing benefit.”.

#### **Amendment of regulation 2 of the 1989 Regulations**

- 19.** In regulation 2(1) of the 1989 Regulations (interpretation)(**26**)—
- (a) after the definition of “student” there shall be inserted the following definition—

““supplementary benefit” means a supplementary pension or allowance under section 1 or 4 of the Supplementary Benefits Act 1976(**27**);”;
  - (b) in the definition of “training allowance”—
    - (i) in paragraph (a) for the words “Training Agency” there shall be substituted the words “Secretary of State”;
    - (ii) in paragraph (c) for the words “that Agency” there shall be substituted the words “the Secretary of State”.

#### **Amendment of regulation 36 of the 1989 Regulations**

**20.** In regulation 36 of the 1989 Regulations (interpretation) in the definition of “student” for the words ““student” means a person” there shall be substituted the words ““student” means a person, other than a person in receipt of a training allowance,”.

#### **Amendment of Regulation 38 of the 1989 Regulations**

**21.**—(1) Regulation 38 of the 1989 Regulations (calculation of grant income) shall be amended in accordance with the following provisions of this regulation.

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(25) S.I. 1987/1971; amended by S.I. 1990/546 and 1775.

(26) Relevant amending instruments are S.I. 1990/834 and 1991/387.

(27) 1976 c. 71.

(2) In paragraph (1) for the words “paragraph (2)” there shall be substituted the words “paragraphs (2) and (2A)”.

(3) After paragraph (2) there shall be inserted the following paragraph—

“(2A) Where in pursuance of an award a student is in receipt of a grant in respect of maintenance under regulation 17(b) of the Education (Mandatory Awards) Regulations 1991 (payments)(28) there shall be excluded from his grant income a sum equal to the amount specified in paragraph 7(4) of Schedule 2 to those Regulations (disregard of travel costs) being the amount to be disregarded in respect of travel costs in the particular circumstances of his case.”.

#### **Amendment of regulation 39 of the 1989 Regulations**

**22.** In regulation 39(3) of the 1989 Regulations (calculation of covenant income where a contribution is assessed) for the words from “regulation 38(2)(h)” to the end of the paragraph there shall be substituted the following words—

“regulation 38(2)(h) (calculation of grant income) falls short of the amount specified in paragraph 7(4)(i) of Schedule 2 to the Education (Mandatory Awards) Regulations 1991 (travel expenditure).”.

#### **Amendment of regulation 40 of the 1989 Regulations**

**23.** In regulation 40(1)(c) of the 1989 Regulations (covenant income where no grant income or no contribution is assessed) for the words “regulation 38(2)(g) and (h)” there shall be substituted the words “regulation 38(2)(g) and (2A)”.

#### **Amendment of regulation 56 of the 1989 Regulations**

**24.—(1)** Regulation 56 of the 1989 Regulations (date on which change of circumstances is to take effect)(29) shall be amended in accordance with the following provisions of this regulation.

(2) After paragraph (3A) there shall be inserted the following paragraphs—

“(3B) Where the change of circumstances is the death of a claimant’s partner it shall take effect on the day on which the death occurs.

(3C) Where—

- (a) the change of circumstances is the separation of the claimant and his partner, and
- (b) during the benefit week in which the separation occurs the partner ceases to be liable for the appropriate authority’s personal community charge or for a collective community charge in that authority’s area,

the change shall take effect on the day on which the partner ceases to be so liable.”.

(3) In paragraph (4) for the words “paragraphs (1) to (3A)” there shall be substituted the words “paragraphs (1) to (3C)” and for the words “paragraph (2), (3) or (3A)” there shall be substituted the words “paragraph (2), (3), (3A), (3B) or (3C).”.

#### **Amendment of regulation 61 of the 1989 Regulations**

**25.—(1)** Regulation 61 of the 1989 Regulations (evidence and information)(30) shall be amended in accordance with the following provisions of this regulation.

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(28) S.I. 1991/1838.

(29) Regulation 56 was amended by S.I. 1990/834 and 1773.

(30) Regulation 61 was amended by S.I. 1990/834 and 1991/1175.



(2) In paragraph (1) for the words from “which is disregarded” to the end there shall be substituted the words “to which paragraph (3) applies”.

(3) After paragraph (2) there shall be added the following paragraph—

“(3) This paragraph applies to any of the following payments—

(a) a payment which is—

(i) disregarded under paragraph 22 of Schedule 3 (income in kind) or paragraph 32 of Schedule 4<sup>(31)</sup>(payments in kind made by a charity or under certain trusts), and

(ii) made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust or the Macfarlane (Special Payments) (No. 2) Trust;

(b) a payment which is disregarded under paragraph 35 of Schedule 3 or paragraph 23 of Schedule 4 (payments made under certain trusts)<sup>(32)</sup>, other than a payment made under the Independent Living Fund.”.

#### **Amendment of regulation 65 of the 1989 Regulations**

**26.** In regulation 65 of the 1989 Regulations (notification of determinations) there shall be added at the end the following paragraphs—

“(3) A person to whom an authority sends or delivers a notification of determination may request in writing the authority to provide a written statement setting out the reasons as to its determination of any matter set out in the notice.

(4) The written statement referred to in paragraph (3) shall be sent to the person requesting it within 14 days or as soon as is reasonably practicable thereafter.”.

#### **Amendment of regulation 66 of the 1989 Regulations**

**27.** In regulation 66(3) of the 1989 Regulations (time and manner of making notifications, requests or representations)—

(a) the words “, 68 (requests for statement of reasons)” shall be omitted; and

(b) for the words “a request for a statement or representations” there shall be substituted the words “representations or a request for a further review”.

#### **Amendment of regulation 67 of the 1989 Regulations**

**28.—**(1) Regulation 67 of the 1989 Regulations (review of determinations) shall be amended in accordance with the following provisions of this regulation.

(2) At the end of paragraph (2) there shall be added the words “within 14 days of receiving the representations or as soon as reasonably practicable thereafter”.

(3) In paragraph (3) for the words “paragraph (4)” there shall be substituted the words “paragraph (5)”.

(4) In paragraph (4) for the words “regulation 68” there shall be substituted the words “regulation 65(3)”.

(5) In paragraph (6) for the words “65 to 68” there shall be substituted the words “65 to 67”.

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<sup>(31)</sup> Paragraph 32 of Schedule 4 was amended by S.I. 1991/1175.

<sup>(32)</sup> Paragraph 35 of Schedule 3 and paragraph 23 of Schedule 4 were substituted by S.I. 1991/1175.

### **Amendment of regulation 82 of the 1989 Regulations**

**29.** In regulation 82(2) of the 1989 Regulations (offsetting) for the words “recoverable excess benefits under regulation 84 (recoverable excess benefits)” there shall be substituted the words “excess benefits within the meaning of regulation 83 (meaning of excess benefits)”.

### **Amendment of regulation 92 of the 1989 Regulations**

**30.** In regulation 92 of the 1989 Regulations (information to be supplied by the Secretary of State to an appropriate authority)—

- (a) for sub-paragraph (d) there shall be substituted the following sub-paragraph—
  - “(d) where a claimant’s claim for income support has been disallowed, the reason for the disallowance;”;
- (b) in sub-paragraph (f) there shall be added at the end the words—
  - “and the date on which the payment of income support ceased or is to cease”;
- (c) for sub-paragraph (h) there shall be substituted the following sub-paragraphs—
  - “(h) the national insurance number in respect of any claimant who is in receipt of income support and of any partner he may have;
  - (i) where a claimant or any partner of his is in receipt of income support and changes his residence from the area of one appropriate authority to that of another, the date on which a claim for community charge benefit by the claimant or his partner is received by the appropriate social security office;
  - (j) any further information required for the purpose of—
    - (i) the calculation and recovery of excess community charge benefits,
    - (ii) the investigation and prevention of offences relating to community charge benefits,
    - (iii) any proceedings for an offence under the benefit Acts relating to community charge benefits.”.

### **Amendment of Schedule 3 to the 1989 Regulations**

**31.** In Schedule 3 to the 1989 Regulations (sums to be disregarded in the calculation of income other than earnings)—

- (a) for paragraph 31 there shall be substituted the following paragraph—
  - “**31.** Any social fund payment made pursuant to Part III of the Act.”;
- (b) after paragraph 46 there shall be inserted the following paragraphs—
  - “**47.** Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.
  - “**48.** Any payment (other than a training allowance) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944<sup>(33)</sup> or in accordance with arrangements made under section 2 of the Employment and Training Act 1973<sup>(34)</sup> to assist disabled persons to obtain or retain employment despite their disability.”.

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(33) 1944 c. 10.

(34) 1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19).

### **Amendment of Schedule 4 to the 1989 Regulations**

**32.** In Schedule 4 to the 1989 Regulations (capital to be disregarded)—

(a) for paragraph 19 there shall be substituted the following paragraph—

“**19.** Any social fund payment made pursuant to Part III of the Act.”;

(b) after paragraph 40 there shall be inserted the following paragraphs—

“**41.** Any payment made by the Secretary of State to compensate a person who was entitled to supplementary benefit in respect of a period ending immediately before 11th April 1988 but who did not become entitled to income support in respect of a period beginning with that day.

**42.** Any payment (other than a training allowance, or a training bonus under section 2 of the Employment and Training Act 1973) made, whether by the Secretary of State or any other person, under the Disabled Persons (Employment) Act 1944(**35**) or in accordance with arrangements made under section 2 of the Employment and Training Act 1973(**36**) to assist disabled persons to obtain or retain employment despite their disability. **43.** Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958(**37**) to homeworkers assisted under the Blind Homeworkers' Scheme.”.

### **Amendment of Schedule 5 to the 1989 Regulations**

**33.** In Schedule 5 to the 1989 Regulations (matters to be included in the notice of determination) in paragraph 2 for the words “regulation 68” there shall be substituted the words “regulation 65(3)”.

### **Amendments of the 1989 Regulations consequential upon the Children Act 1989**

**34.** The provisions of the 1989 Regulations shall be further amended in accordance with Schedule 2 to these Regulations, which makes changes consequential upon the Children Act 1989(**38**).

### **Revocations**

**35.** The following regulations are hereby revoked, namely—

(a) regulation 80 of the 1987 Regulations (requests for statement of reasons); and

(b) regulation 68 of the 1989 Regulations (requests for statement of reasons).

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

2nd March 1992

*Ann Widdecombe*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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(35) 1944 c. 10.

(36) 1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19).

(37) 1958 c. 33.

(38) 1989 c. 41.

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

## SCHEDULE 1

Regulation 17

AMENDMENTS TO THE 1987 REGULATIONS MADE  
CONSEQUENTIAL UPON THE CHILDREN ACT 1989

1. In regulation 15 (circumstances in which a person is to be treated as being or not being a member of the household)—

(a) in paragraph (3) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

“(a) placed with the claimant or his partner by a local authority under section 23(2)(a) of the Children Act 1989<sup>(39)</sup> or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the claimant or his partner under a relevant enactment; or

(b) placed, or in Scotland boarded out, with the claimant or his partner prior to adoption; or”;

(b) in paragraph (4) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

“(a) is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or

(b) has been placed, or in Scotland boarded out, with a person other than the claimant prior to adoption; or”;

(c) in paragraph (6) the words “the Children Act 1958,” and “and the Foster Children Act 1980” shall be omitted and there shall be added at the end the words “the Family Law Act 1986<sup>(40)</sup> and the Children Act 1989”.

2. In regulation 48A (full-time students to be treated as not liable to make payments in respect of a dwelling)<sup>(41)</sup> in paragraph (2) for sub-paragraph (d) there shall be substituted the following sub-paragraph—

“(d) who is a single claimant with whom a child is—

(i) placed by a local authority or voluntary organisation under section 23(2)(a) or section 59(1)(a) of the Children Act 1989 (provision of accommodation and maintenance); or

(ii) in Scotland boarded out by a local authority or voluntary organisation within the meaning of the Social Work (Scotland) Act 1968<sup>(42)</sup>”.

3. In Schedule 4 (sums to be disregarded in the calculation of income other than earnings), in paragraph 23, in sub-paragraph (1) for heads (a) and (b) there shall be substituted the following heads—

“(a) in accordance with regulations made pursuant to section 57A of the Adoption Act 1976<sup>(43)</sup>(permitted allowances) or with a scheme approved by the Secretary of State under section 51 of the Adoption (Scotland) Act 1978<sup>(44)</sup>(schemes for payments of allowances to adopters);

(b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989<sup>(45)</sup>(local authority

<sup>(39)</sup> 1989 c. 41.

<sup>(40)</sup> 1986 c. 55.

<sup>(41)</sup> Regulation 48A was inserted by S.I. 1990/1549.

<sup>(42)</sup> 1968 c. 49.

<sup>(43)</sup> 1976 c. 36; section 57A was inserted by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41).

<sup>(44)</sup> 1978 c. 28.

<sup>(45)</sup> 1989 c. 41.

contribution to a child's maintenance where the child is living with a person as a result of a residence order) or, as the case may be, section 50 of the Children Act 1975(46)(payment towards maintenance of children);”.

4. In Schedule 4, for paragraph 24 there shall be substituted the following paragraph—

“24. Any payment made by a local authority to the claimant with whom a person is accommodated by virtue of arrangements made under section 23(2)(a) of the Children Act 1989 or, as the case may be, section 21 of the Social Work (Scotland) Act 1968 or by a voluntary organisation under section 59(1)(a) of the Children Act 1989 or by a care authority under regulation 9 of the Boarding Out and Fostering of Children (Scotland) Regulations 1985(47)(provision of accommodation and maintenance for children by local authorities and voluntary organisations).”.

5. In Schedule 4, for paragraph 26, there shall be substituted the following paragraph—

“26. Any payment made by a local authority in accordance with section 17 or 24 of the Children Act 1989 or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968 (provision of services for children and their families and advice and assistance to certain children).”.

6. In Schedule 5 (capital to be disregarded), for paragraph 18 there shall be substituted the following paragraph—

“18. Any payment made by a local authority in accordance with section 17 or 24 of the Children Act 1989 or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968 (provision of services for children and their families and advice and assistance to certain children).”.

## SCHEDULE 2

Regulation 34

### AMENDMENTS TO THE 1989 REGULATIONS MADE CONSEQUENTIAL UPON THE CHILDREN ACT 1989

1. In regulation 6 (circumstances in which a person is to be treated as being or not being a member of the household)—

(a) in paragraph (2) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

“(a) placed with the claimant or his partner by a local authority under section 23(2)(a) of the Children Act 1989(48) or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the claimant or his partner under a relevant enactment; or

(b) placed, or in Scotland boarded out, with the claimant or his partner prior to adoption; or”;

(b) in paragraph (3) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

“(a) is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or

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(46) 1975 c. 72.

(47) S.I. 1985/1799.

(48) 1989 c. 41.

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

- (b) has been placed, or in Scotland boarded out, with a person other than the claimant prior to adoption; or”;
- (c) in paragraph (5) the words “the Children Act 1958,” and “and the Foster Children Act 1980” shall be omitted and there shall be added at the end the words “the Family Law Act 1986(49) and the Children Act 1989”.
2. In Schedule 3 (sums to be disregarded in the calculation of income other than earnings), in paragraph 24, in sub-paragraph (1), for heads (a) and (b) there shall be substituted the following heads—
- “(a) in accordance with regulations made pursuant to section 57A of the Adoption Act 1976(50)(permitted allowances) or with a scheme approved by the Secretary of State under section 51 of the Adoption (Scotland) Act 1978(51)(schemes for payments of allowances to adopters);
- (b) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child’s maintenance where the child is living with a person as a result of a residence order) or, as the case may be, section 50 of the Children Act 1975(49)(payment towards maintenance of children);”.
3. In Schedule 3, for paragraph 25 there shall be substituted the following paragraph—
- “25. Any payment made by a local authority to the claimant with whom a person is accommodated by virtue of arrangements made under section 23(2)(a) of the Children Act 1989 or, as the case may be, section 21 of the Social Work (Scotland) Act 1968 or by a voluntary organisation under section 59(1)(a) of the Children Act 1989 or by a care authority under regulation 9 of the Boarding Out and Fostering of Children (Scotland) Regulations 1985(52)(provision of accommodation and maintenance for children by local authorities and voluntary organisations).”.
4. In Schedule 3, for paragraph 27, there shall be substituted the following paragraph—
- “27. Any payment made by a local authority in accordance with section 17 or 24 of the Children Act 1989 or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968 (provision of services for children and their families and advice and assistance to certain children).”.
5. In Schedule 4 (capital to be disregarded), for paragraph 18 there shall be substituted the following paragraph—
- “18. Any payment made by a local authority in accordance with section 17 or 24 of the Children Act 1989 or, as the case may be, section 12, 24 or 26 of the Social Work (Scotland) Act 1968 (provision of services for children and their families and advice and assistance to certain children).”.

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(49) 1986 c. 55.

(50) 1976 c. 36; section 57A was inserted by paragraph 25 of Schedule 10 to the Children Act 1989 (c. 41).

(51) 1978 c. 28.

(49) 1986 c. 55.

(52) S.I. 1985/1799.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Housing Benefit (General) Regulations 1987, the Housing Benefit (Supply of Information) Regulations 1988 and the Community Charge Benefits (General) Regulations 1989 so that with respect to housing benefit and community charge benefits—

- (a) they define supplementary benefit and amend the definition of “training allowance”(regulations 2 and 19);
- (b) they amend the definition of “student” to exclude a person in receipt of a training allowance (regulations 3 and 20);
- (c) they further define the amount in respect of travel costs which is to be excluded from a student’s income (regulations 4 to 6 and 21 to 23);
- (d) they further define the evidence and information which may be required in respect of a claim (regulations 8 and 25);
- (e) they transfer to a different regulation the rule relating to the provision of a written statement of the reasons for a determination, and make consequential amendments of a drafting nature (regulations 9, 16, 26, 33 and 35);
- (f) they make amendments of a drafting nature to the power to extend the time for making representations against a determination, or requesting a statement of reasons or a further review (regulations 10 and 27);
- (g) they specify the period within which a review of a determination should be conducted, and make amendments of a drafting nature to the rules relating to reviews of determinations (regulations 11 and 28);
- (h) they further define the amount which may be offset against arrears of entitlement to benefit following a review of a determination (regulations 12 and 29);
- (i) they specify further amounts which may be disregarded in calculating income other than earnings or capital (regulations 14, 15, 31 and 32);
- (j) they make changes consequential upon the Children Act 1989 (regulations 17 and 34); and
- (k) they specify further categories of information which may be supplied by the Secretary of State to a local authority (regulations 18 and 30).

With respect to housing benefit—

- (a) they make further provision in respect of a change of circumstances where the change is an amendment to the Housing Benefit (General) Regulations 1987 (regulation 7);
- (b) they specify further the circumstances in which the requirement of a local authority to apply to the rent officer for a determination does not apply (regulation 13).

With respect to community charge benefits they make further provision in respect of changes of circumstances affecting a claimant and his partner (regulation 24).