
STATUTORY INSTRUMENTS

1994 No. 578

SOCIAL SECURITY

**The Housing Benefit and Council Tax Benefit
(Miscellaneous Amendments) Regulations 1994**

Made - - - - *7th March 1994*
Laid before Parliament *10th March 1994*
Coming into force in accordance with regulation 1(1)

The Secretary of State for Social Security, in exercise of powers conferred on him by sections 123(1) (d) and (e), 130(4), 136(3) to (5), 137(1) and 175(1) to (5) of the Social Security Contributions and Benefits Act 1992(1) and sections 63(3), 127(3), 128(3) and 189(1) and (3) to (5) of the Social Security Administration Act 1992(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 in respect of 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 Council Tax Benefit (Miscellaneous Amendments) Regulations 1994 and shall come into force—

- (a) for the purposes of this regulation and regulations 15 to 25, on 1st April 1994;
- (b) for the purposes of regulations 2 to 14—
 - (i) in 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 1994;
 - (ii) in any other case, on 4th April 1994.

(2) In these Regulations—

- (a) “the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(5);

(1) 1992 c. 4; section 123(1)(e) of the Social Security Contributions and Benefits Act 1992 was substituted by the Local Government Finance Act 1992 (c. 14), section 103 and Schedule 9, paragraph 1(1); section 137(1) is an interpretation provision and is cited because of the meaning assigned to the word “prescribed”.

(2) 1992 c. 5; sections 63(3), 128(3) and 189 of the Social Security Administration Act 1992 were amended to have effect with respect to council tax by the Local Government Finance Act 1992, section 103 and Schedule 9, paragraphs 14(2), 18(3) and 24.

(3) See the Social Security Administration Act 1992 (c. 5), section 176(1).

(4) See the Social Security Administration Act 1992, section 173(1)(b) and (7); section 173(7) defines “regulations”.

(5) S.I.1987/1971.

- (b) “the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(6).

Amendment of regulation 2 of the Housing Benefit Regulations

2. In regulation 2(1) of the Housing Benefit Regulations (interpretation)—
- (a) the definition of “boarder” shall be omitted;
- (b) after the definition of “person on income support” there shall be inserted the following definition—
- ““personal pension scheme” has the same meaning as in section 191 of the Social Security Administration Act 1992(7) and, in the case of a self-employed earner, includes a scheme approved by the Board of Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(8);”.

Amendment of regulation 25 of the Housing Benefit Regulations

- 3.—(1) Regulation 25 of the Housing Benefit Regulations (calculation of weekly income) shall be renumbered paragraph (1) of regulation 25.
- (2) In paragraph (1) of regulation 25 for the words “For the purposes of regulations 22 to 24 (average weekly income)” there shall be substituted the words “For the purposes of regulations 22 (average weekly earnings of employed earners) and 24 (average weekly income other than earnings)”.
- (3) After paragraph (1) of regulation 25 there shall be added the following paragraph—
- “(2) For the purposes of regulation 23 (average weekly earnings of self-employed earners) the weekly amount of earnings of a claimant shall be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the quotient by 7.”.

Amendment of regulation 29 of the Housing Benefit Regulations

4. In regulation 29(4) of the Housing Benefit Regulations (calculation of net earnings of employed earners)(9) for sub-paragraph (b) there shall be substituted the following sub-paragraph—
- “(b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Contributions and Benefits Act in respect of those earnings if such contributions were payable; and”.

Amendment of regulation 30 of the Housing Benefit Regulations

5. In regulation 30(1) of the Housing Benefit Regulations (earnings of self-employed earners)(10) there shall be added at the end the words “unless at the date of claim the allowance has been terminated”.

Amendment of regulation 31 of the Housing Benefit Regulations

6. In regulation 31 of the Housing Benefit Regulations (calculation of net profit of self-employed earners)—

(6) S.I. 1992/1814.

(7) 1992 c. 5; section 191 was amended by the Pension Schemes Act 1992 (c. 48), section 190 and Schedule 8, paragraph 31.

(8) 1988 c. 1.

(9) Relevant amending instrument is S.I. 1992/2148.

(10) Regulation 30 was amended by S.I. 1991/387 and 1993/317.

- (a) for the words “one-half of any qualifying premium payable” in each place where they occur there shall be substituted the words “one-half of the amount calculated in accordance with paragraph (12) in respect of any qualifying premium”;
- (b) for paragraph (11) there shall be substituted the following paragraphs—
 - “(11) In this regulation—
 - “qualifying premium” means any premium which is payable periodically in respect of a retirement annuity contract or a personal pension scheme and is so payable on or after the date of claim;
 - “retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium.
 - (12) The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying premium shall be determined—
 - (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;
 - (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.”.

Amendment of regulation 35 of the Housing Benefit Regulations

7. In regulation 35(7) of the Housing Benefit Regulations (notional income)(11) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

- “(b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Contributions and Benefits Act in respect of those earnings if such contributions were payable; and”.

Amendment of regulation 55 of the Housing Benefit Regulations

8. In regulation 55(2)(b) of the Housing Benefit Regulations (covenant income where no grant income or no contribution is assessed)(12) there shall be added at the end the words “and (2A)”.

Amendment of regulation 57 of the Housing Benefit Regulations

9. In regulation 57 of the Housing Benefit Regulations (certain amounts to be disregarded in respect of student’s income)—

- (a) for the words “other than grant income and covenant income” there shall be substituted the words “other than grant income, covenant income and loans treated as income in accordance with regulation 57A(13)”;
- (b) after the words “sums disregarded under regulation 53(2)” there shall be inserted the words “or (2A)”(14).

(11) Relevant amending instrument is S.I. 1992/2148.

(12) Regulation 55 was amended, and regulation 53(2A) was added, by S.I. 1992/432.

(13) Regulation 57A was inserted by S.I. 1990/1549 and was amended by S.I. 1991/235 and 1599.

(14) Regulation 53(2A) was inserted by S.I. 1992/432.

Amendment of regulation 61 of the Housing Benefit Regulations

10.—(1) Regulation 61 of the Housing Benefit Regulations (maximum housing benefit)(**15**) shall be renumbered paragraph (1) of regulation 61, and in paragraph (1) for the words “The amount of a person’s maximum housing benefit” there shall be substituted the words “Subject to paragraph (2), the amount of a person’s appropriate maximum housing benefit”.

(2) After paragraph (1) of regulation 61 there shall be added the following paragraph—

“(2) Where—

- (a) the appropriate authority is satisfied that a claimant’s circumstances are exceptional; and
- (b) either—
 - (i) any deduction in respect of non-dependants falls to be made under regulation 63 for the purpose of determining a person’s appropriate maximum housing benefit; or
 - (ii) an amount falls to be deducted from a person’s appropriate maximum housing benefit in accordance with section 130(3)(b) of the Contributions and Benefits Act (amount of housing benefit where income exceeds applicable amount); and
- (c) if the person’s appropriate maximum housing benefit were not increased under this paragraph, an amount of housing benefit would be payable to the claimant notwithstanding any deduction which would fall to be made in accordance with section 130(3)(b) of that Act,

the authority may determine that the amount of the person’s appropriate maximum housing benefit calculated in accordance with paragraph (1) shall be such higher amount (“the increased amount—”) as it considers appropriate in the particular circumstances of the case, but so that the increased amount, after any deduction made in accordance with section 130(3)(b) of that Act, shall not exceed his eligible rent calculated on a weekly basis in accordance with regulations 69 and 70 (calculation of weekly amounts and rent free periods).”.

Amendment of regulation 68 of the Housing Benefit Regulations

11.—(1) Regulation 68 of the Housing Benefit Regulations (date on which change of circumstances is to take effect)(**16**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “paragraphs (2) to (5)” there shall be substituted the words “paragraphs (2) to (6)”.

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

“(6) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the Contributions and Benefits Act, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances shall take effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of these Regulations.”.

(4) Paragraph (3) of this regulation shall only apply in the case of a change of circumstances which affects entitlement to housing benefit, or the amount of housing benefit, where entitlement to

(15) Regulation 61 was substituted by S.I. [1990/546](#).

(16) Relevant amending instrument is S.I. [1992/432](#).

housing benefit arose pursuant to a claim for that benefit determined on or after 1st April 1994 or, in a case to which regulation 1(1)(b)(ii) of these Regulations applies, 4th April 1994.

Amendment of regulation 69 of the Housing Benefit Regulations

12. In regulation 69 of the Housing Benefit Regulations (calculation of weekly amounts) paragraph (8) shall be omitted.

Amendment of Schedule 4 to the Housing Benefit Regulations

13.—(1) Schedule 4 to the Housing Benefit Regulations (sums to be disregarded in the calculation of income other than earnings) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph 20(17) there shall be substituted the following paragraph—

“**20.** Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 19 or 42 refers and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family; and
- (b) a further £8.60, where the aggregate of any such payments is inclusive of an amount for heating.”

(3) For paragraph 42 there shall be substituted the following paragraph—

“**42.—**(1) Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100% of such payments; or
- (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50% of the excess over £20.00.

(2) In this paragraph “board and lodging accommodation” means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises.”

(4) At the end of the Schedule there shall be added the following paragraph—

“**52.** here the claimant is in receipt of any benefit under Parts II, III or V of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.”

Amendment of the Housing Benefit (Supply of Information) Regulations 1988

14. After regulation 3 of the Housing Benefit (Supply of Information) Regulations 1988(18) there shall be added the following regulation—

“Further information to be supplied by an authority to the Secretary of State

4.—(1) For the purposes of section 127(3) of the Social Security Administration Act 1992(19) (duty of an authority to supply the Secretary of State with information) an authority shall supply, in writing, to the Secretary of State by the 15th of April, 15th of July, 15th of October and 15th of January of each year, in respect of the preceding quarter, information that he may require in relation to cases where a claim has been made for housing benefit and in respect of which there has been an intervention, in the respective quarter, of an officer of that authority designated by that authority for the investigation of fraud.

(2) In this regulation “quarter” means the period of 3 months beginning on 1st April, 1st July, 1st October or 1st January, as the case may be.”.

Amendment of regulation 2 of the Council Tax Benefit Regulations

15. In regulation 2(1) of the Council Tax Benefit Regulations (interpretation)—

- (a) the definition of “boarder” shall be omitted;
- (b) after the definition of “person on income support” there shall be inserted the following definition—

““personal pension scheme” has the same meaning as in section 191 of the Administration Act 1992(20) and, in the case of a self-employed earner, includes a scheme approved by the Board of Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(21)

Amendment of regulation 17 of the Council Tax Benefit Regulations

16.—(1) Regulation 17 of the Council Tax Benefit Regulations (calculation of weekly income) shall be renumbered paragraph (1) of regulation 17.

(2) In paragraph (1) of regulation 17 for the words “For the purposes of regulations 14 to 16 (average weekly income)” there shall be substituted the words “For the purposes of regulations 14 (average weekly earnings of employed earners) and 16 (average weekly income other than earnings)”.

(3) After paragraph (1) of regulation 17 there shall be added the following paragraph—

“(2) For the purposes of regulation 15 (average weekly earnings of self-employed earners) the weekly amount of earnings of a claimant shall be determined by dividing his earnings over the assessment period by the number equal to the number of days in that period and multiplying the quotient by 7.”.

Amendment of regulation 20 of the Council Tax Benefit Regulations

17. In regulation 20(4) of the Council Tax Benefit Regulations (calculation of net earnings of employed earners)(22) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

(18) S.I. 1988/662.

(19) 1992 c. 5.

(20) 1992 c. 5; section 191 was amended by the Pension Schemes Act 1993 (c. 48), section 190 and Schedule 8, paragraph 31.

(21) 1988 c. 1.

(22) Relevant amending instrument is S.I. 1993/688.

- “(b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Contributions and Benefits Act 1992 in respect of those earnings if such contributions were payable; and”

Amendment of regulation 21 of the Council Tax Benefit Regulations

18. In regulation 21(1) of the Council Tax Benefit Regulations (earnings of self-employed earners)(**23**) there shall be added at the end the words “unless at the date of claim the allowance has been terminated”.

Amendment of regulation 22 of the Council Tax Benefit Regulations

19. In regulation 22 of the Council Tax Benefit Regulations (calculation of net profit of self-employed earners)—

- (a) for the words “one-half of any qualifying premium payable” in each place where they occur there shall be substituted the words “one-half of the amount calculated in accordance with paragraph (12) in respect of any qualifying premium”;
- (b) for paragraph (11) there shall be substituted the following paragraphs—

“(11) In this regulation—

“qualifying premium” means any premium which is payable periodically in respect of a retirement annuity contract or a personal pension scheme and is so payable on or after the date of claim;

“retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium.

(12) The amount in respect of any qualifying premium shall be calculated by multiplying the daily amount of the qualifying premium by the number equal to the number of days in the assessment period; and for the purposes of this regulation the daily amount of the qualifying premium shall be determined—

- (a) where the qualifying premium is payable monthly, by multiplying the amount of the qualifying premium by 12 and dividing the product by 365;
- (b) in any other case, by dividing the amount of the qualifying premium by the number equal to the number of days in the period to which the qualifying premium relates.”.

Amendment of regulation 26 of the Council Tax Benefit Regulations

20. In regulation 26(7) of the Council Tax Benefit Regulations (notional income)(**24**) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

- “(b) an amount equivalent to the amount of the primary Class 1 contributions that would be payable by him under the Contributions and Benefits Act 1992 in respect of those earnings if such contributions were payable; and”.

(23) Regulation 21 was amended by S.I. [1993/688](#).

(24) Relevant amending instrument is S.I. [1993/688](#).

Amendment of regulation 44 of the Council Tax Benefit Regulations

21. In regulation 44(1)(c) of the Council Tax Benefit Regulations (covenant income where no grant income or no contribution is assessed) for the words “regulation 42(2)(g) and (h)” there shall be substituted the words “regulation 42(2)(g) and (3)”.

Amendment of regulation 46 of the Council Tax Benefit Regulations

22. In regulation 46 of the Council Tax Benefit Regulations (certain amounts to be disregarded in respect of student’s income)—

- (a) for the words “other than grant income and covenant income” there shall be substituted the words “other than grant income, covenant income and loans treated as income in accordance with regulation 47”;
- (b) after the words “sums disregarded under regulation 42(2)” there shall be inserted the words “or (3)”.

Amendment of regulation 59 of the Council Tax Benefit Regulations

23.—(1) Regulation 59 of the Council Tax Benefit Regulations (date on which change of circumstances is to take effect)(**25**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “paragraphs (2) to (7)” there shall be substituted the words “paragraphs (2) to (8)”.

(3) After paragraph (7) there shall be added the following paragraph—

“(8) Where the change of circumstances is that income, or an increase in the amount of income, other than a benefit or an increase in the amount of a benefit under the Contributions and Benefits Act 1992, is paid in respect of a past period and there was no entitlement to income of that amount during that period, the change of circumstances shall take effect from the first day on which such income, had it been paid in that period at intervals appropriate to that income, would have fallen to be taken into account for the purposes of these Regulations.”.

(4) Paragraph (3) of this regulation shall only apply in the case of a change of circumstances which affects entitlement to council tax benefit, or the amount of council tax benefit, where entitlement to council tax benefit arose pursuant to a claim for that benefit determined on or after 1st April 1994.

Insertion of regulation 94 of the Council Tax Benefit Regulations

24. After regulation 93 of the Council Tax Benefit Regulations there shall be added the following regulation—

“Further information to be supplied by an appropriate authority to the Secretary of State

94.—(1) For the purposes of section 128(3) of the Administration Act 1992(**26**) (duty of an authority to supply the Secretary of State with information) an authority shall supply, in writing, to the Secretary of State by the 15th of April, 15th of July, 15th of October and 15th of January of each year, in respect of the preceding quarter, information that he may require in relation to cases where a claim has been made for council tax benefit and in respect of

(25) Regulation 59 was amended by S.I. 1993/688.

(26) Section 128(3) of the Social Security Administration Act 1992 (c. 5) was amended by the Local Government Finance Act 1992 (c. 14), section 103, Schedule 9, paragraph 18(3).

which there has been an intervention, in the respective quarter, of an officer of that authority designated by that authority for the investigation of fraud.

(2) In this regulation “quarter” means the period of 3 months beginning on 1st April, 1st July, 1st October or 1st January, as the case may be.”

Amendment of Schedule 4 to the Council Tax Benefit Regulations

25.—(1) Schedule 4 to the Council Tax Benefit Regulations (sums to be disregarded in the calculation of income other than earnings) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph 20 there shall be substituted the following paragraph—

“**20.** Where the claimant occupies a dwelling as his home and the dwelling is also occupied by a person other than one to whom paragraph 19 or 21 refers and there is a contractual liability to make payments to the claimant in respect of the occupation of the dwelling by that person or a member of his family—

- (a) £4 of the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family; and
- (b) a further £8.60, where the aggregate of any such payments is inclusive of an amount for heating.”

(3) For paragraph 21 there shall be substituted the following paragraph—

“**21.**—(1) Where the claimant occupies a dwelling as his home and he provides in that dwelling board and lodging accommodation, an amount, in respect of each person for whom such accommodation is provided for the whole or any part of a week, equal to—

- (a) where the aggregate of any payments made in respect of any one week in respect of such accommodation provided to such person does not exceed £20.00, 100% of such payments; or
- (b) where the aggregate of any such payments exceeds £20.00, £20.00 and 50% of the excess over £20.00.

(2) In this paragraph “board and lodging accommodation” means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of the provision of that accommodation and at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises.”

(4) At the end of the Schedule there shall be added the following paragraph—

“**51.** Where the claimant is in receipt of any benefit under Parts II, III or V of the Contributions and Benefits Act 1992, any increase in the rate of that benefit arising under Part IV (increases for dependants) or section 106(a) (unemployability supplement) of that Act where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.”

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.

Department of Social Security
7th March 1994

Alistair Burt
Parliamentary Under-Secretary of State,

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Housing Benefit (General) Regulations 1987 (S. I.1987/1971), the Housing Benefit (Supply of Information) Regulations 1988 (S. I.1988/662) and the Council Tax Benefit (General) Regulations 1992 (S. I.1992/1814) so that with respect to each benefit—

- (a) they provide a definition of “personal pension scheme” and omit the definition of “boarder” (regulations 2 and 15);
- (b) they further specify the amount to be deducted in certain circumstances in respect of national insurance contributions when calculating a person’s income (regulations 4, 7, 17 and 20);
- (c) with respect to the calculation of the earnings of self-employed earners, they amend the provisions for calculating the weekly amount of earnings; they amend the definition of earnings in relation to certain allowances paid to assist a person in carrying on his business; and they provide that a proportion of any premium paid in respect of a personal pension scheme shall be disregarded (regulations 3, 5, 6, 16, 18 and 19);
- (d) they further define the amount to be disregarded in calculating a student’s covenant income and a student’s income other than grant income and covenant income (regulations 8, 9, 21 and 22);
- (e) they make further provision as to the date on which a change of circumstances is to take effect, where the change is in respect of a person’s income (regulations 11 and 23);
- (f) with respect to the calculation of income other than earnings they provide a disregard where an increase of a specified benefit is payable in respect of a dependant who is not a member of the claimant’s family, and further define the amount to be disregarded in respect of payments made to a claimant where other persons occupy the claimant’s home (regulations 13 and 25);
- (g) they specify the time within which authorities shall supply to the Secretary of State information as to cases in which there has been an intervention by a designated fraud officer of the authority (regulations 14 and 24).

With respect to housing benefit they further specify the extent to which a local authority may in exceptional circumstances increase a person’s maximum housing benefit (regulations 10 and 12).

These Regulations do not impose a charge on businesses.