
STATUTORY INSTRUMENTS

1995 No. 2868

SOCIAL SECURITY

**The Housing Benefit (General)
Amendment (No.2) Regulations 1995**

Made - - - - *6th November 1995*
Laid before Parliament *10th November 1995*
Coming into force - - *2nd January 1996*

The Secretary of State for Social Security, in exercise of powers conferred upon him by sections 123(1)(d), 130(2), (4) and (5), 137(1) and 175(1) and (3) to (6) of the Social Security Contributions and Benefits Act 1992(1), sections 5(1)(h) and (r) and (3), 63(3), 136(2), 189(1) and (4) to (6) and 191 of the Social Security Administration Act 1992(2) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(3) and after consultation with organisations appearing to him to be representative of the authorities concerned,(4) 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 1995 and shall come into force on 2nd January 1996, immediately after the Housing Benefit (General) Amendment Regulations 1995(5) come into force.

(2) In these Regulations “the principal Regulations” means the Housing Benefit (General) Regulations 1987(6) and a reference in a regulation to a numbered paragraph is to the paragraph of the regulation in those Regulations bearing that number.

Amendment of regulation 10 of the principal Regulations

2.—(1) Regulation 10 of the principal Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3) there shall be inserted, after the words “Subject to”, the words “paragraph (6AA) and”.

(1) 1992 c. 4; section 137(1) is cited because of the meaning there ascribed to “prescribed”.
(2) 1992 c. 5; section 191 is cited because of the meaning there ascribed to “prescribe”.
(3) See section 173(1)(b) of the Social Security Administration Act 1992.
(4) See section 176(1) of the Social Security Administration Act 1992.
(5) S.I. 1995/1644.
(6) S.I. 1987/1971; relevant amendments are S.I. 1988/1444, 1990/546, 1991/235, 1993/317, 1994/578, 1003, 1995/560 and 1644.

(3) After paragraph (6A)(7) there shall be inserted the following paragraphs—

“(6AA) Except in a case where paragraph (6AB) applies and subject to any apportionment in accordance with paragraphs (4) and (5), in any case where a maximum rent has been determined there shall be no reduction or further reduction, as the case may be, in eligible rent in accordance with paragraph (3).

(6AB) This paragraph applies where—

- (a) the appropriate authority considers that the circumstances in either paragraph 2(1A) or 3 of Schedule 1 (amount of ineligible charges and excessive service costs)(8) arise; or
- (b) any charge to which sub-paragraphs (a) to (c) of paragraph (3) apply has not been taken account of either by the appropriate authority in determining the maximum rent or by a rent officer in a determination made in exercise of the Housing Act functions.”.

Amendment of regulation 11 of the principal Regulations

3.—(1) Regulation 11 of the principal Regulations(9) shall be amended in accordance with the following provisions of this regulation.

(2) After paragraph (6) there shall be inserted the following paragraphs—

“(6A) Subject to paragraph (6B), in a case where—

- (a) a rent officer has made a determination in exercise of the Housing Act functions pursuant to an application by an authority under regulation 12A(1)(c)(10); and
- (b) subsequent to that determination the reckonable rent for that dwelling is changed, then in determining a maximum rent in relation to a claim for benefit of a claimant who has a liability to make payments in respect of that dwelling, the authority shall treat the relevant or, as the case may be, reckonable rent to be that determined in or, as the case may be, applicable to, that determination by the rent officer.

(6B) Paragraph (6A) shall not apply in a case where the reckonable rent is reduced to a figure below the figure that would have been the maximum rent if that reckonable rent had not changed; and where this paragraph applies, the maximum rent shall be the reckonable rent, as so reduced.”.

(3) After paragraph (8) there shall be inserted the following paragraphs—

“(8A) Subject to paragraphs (8B) and (8C), in any case where, pursuant to regulation 10(3) (non-eligible payments)(11), the amount of a person’s otherwise eligible rent falls to be lessened by any—

- (a) deduction for fuel;
- (b) deduction for meals; or
- (c) water charges,

the maximum rent shall be that determined in accordance with the foregoing provisions of this regulation, less the amount of any such deductions or charges.

(7) Paragraph (6A) was added by S.I. 1995/1644.

(8) Sub-paragraph (1A) was added by S.I. 1991/235 and amended by S.I. 1993/317 and paragraph 3 was amended by S.I. 1988/1944.

(9) Regulation 11 was substituted by S.I. 1995/1644.

(10) Sub-paragraph 12A(1)(c) was added by S.I. 1995/1644.

(11) Paragraph (3) was amended by S.I. 1990/546, 1993/317 and 1995/1644.

(8B) Subject to paragraph (8C), where a rent officer has made a rent determination under paragraph 3 of Schedule 1 to the Rent Officers Order there shall be no deductions for fuel or for meals.

(8C) Where the notice of the determination to which paragraph (8B) refers states, pursuant to paragraph 2A of Schedule 1 to the Rent Officers Order⁽¹²⁾, that an ineligible payment has been included in it and—

- (a) sub-paragraph (a) of that paragraph applies to that determination, there shall be a deduction for meals;
- (b) sub-paragraph (b) of that paragraph applies to that determination, there shall be a deduction for fuel;
- (c) sub-paragraph (c) of that paragraph applies to that determination, there shall be a deduction for fuel and a deduction for meals.”.

(4) In paragraph (13)—

- (a) after the words “In this regulation —” there shall be inserted the following definitions—
 - ““deduction for fuel” means any amount of a person’s otherwise eligible rent which is an ineligible service charge by reason of and within the meaning of paragraph 4 of Schedule 1;
 - “deduction for meals” means any amount of a person’s otherwise eligible rent which is an ineligible service charge by reason of and within the meaning of paragraph 1(a) (i) of Schedule 1⁽¹³⁾”;
- (b) to the definition of “reckonable rent” there shall be added, at the end, the words—
 - “plus the amount of any deduction for fuel, deduction for meals or water charges, as the case may be, which that person is liable to pay”;
- (c) after the definition of “size-related rent” there shall be added a new definition—
 - ““water charges” means any charge to which regulation 10(3)(a) applies.”.

Amendment of regulation 12A of the principal Regulations

4.—(1) Regulation 12A⁽¹⁴⁾ of the principal Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) there shall be substituted for the words “Subject to paragraph (2)” the words “Subject to the following provisions of this regulation”.

(3) After paragraph (1) there shall be inserted a new paragraph (1A) —

“(1A) When applying to the rent officer pursuant to paragraph (1) the appropriate authority shall state the following information in respect of the payments which that claimant is liable to make in respect of the dwelling which he occupies as his home—

- (a) whether they include any charges for water, sewerage or allied environmental services; and
- (b) where they include any charges that are ineligible for housing benefit by reason of paragraph 1(d) to (f)⁽¹⁵⁾ of Schedule 1 (ineligible service charges)—
 - (i) that such charges are included; and

⁽¹²⁾ Paragraph 2A was added by S.I. 1995/2365 in the case of England and Wales and 2361 in the case of Scotland.

⁽¹³⁾ Paragraph 1(a)(i) was amended by S.I. 1988/1444.

⁽¹⁴⁾ Regulation 12A was added by S.I. 1990/546 and amended by S.I. 1993/317, 1995/560 and 1644.

⁽¹⁵⁾ Sub-paragraph (f) was substituted by S.I. 1994/1003.

- (ii) the value of those charges as determined by that authority pursuant to regulation 10(3) and that Schedule.”.

Amendment of regulation 79 of the principal Regulations

5. In regulation 79(4A) of the principal Regulations (review of determinations)(16) for the words “paragraph (3)” there shall be substituted the words “paragraph (2)”.

Amendment of regulation 91 of the principal Regulations

6. In paragraph (1) of regulation 91 of the principal Regulations (payment on account of a rent allowance), for the words after “such amount as it considers reasonable” there shall be substituted the words—

“having regard to—

- (a) such information which may at the time be available to it concerning the claimant’s circumstances; and
- (b) any relevant determination made by a rent officer in exercise of the Housing Act functions.”.

Amendment of Schedule 1A to the principal Regulations

7. For paragraph 3 of Schedule 1A to the principal Regulations (excluded tenancies)(17) there shall be substituted the following paragraph—

“3.—(1) This paragraph applies where the landlord is a registered housing association, except in a case where the local authority consider that—

- (a) the claimant occupies a dwelling larger than is reasonably required by him and any others who occupy that dwelling (including any non-dependants of his and any person paying rent to him); or
- (b) the rent payable for that dwelling is unreasonably high.

(2) Where the circumstances set out in head (a) or (b) of sub-paragraph (1) above exist, the authority shall so state in their application for a determination.”.

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

6th November 1995

Roger Evans
Parliamentary Under-Secretary of State,
Department of Social Security

(16) Paragraph (4A) was added by S.I. [1995/1644](#).

(17) Schedule 1A was added by S.I. [1990/546](#) and paragraph 3 was substituted by S.I. [1995/1644](#).

EXPLANATORY NOTE

(This note is not part of the Regulation)

These Regulations further amend the Housing Benefit (General) Regulations 1987 (S.I. [1987/1971](#)). Regulation 2 makes provision to prevent any double deduction of ineligible charges, and to ensure that they are in fact deducted. Regulation 3 provides for the consequences of a case where the rent sought is reduced following a pre-tenancy determination by the rent officer and for the treatment of deductions for fuel, for meals and water charges, when there is a rent officer's determination, and regulation 4 requires local authorities to provide certain information when making references to the rent officer.

Regulation 5 corrects a cross reference in an addition made to those Regulations by the Housing Benefit (General) Amendment Regulations 1995 (S.I. [1995/1644](#)). Regulation 6 permits local authorities to have regard to rent officers' determinations when determining any payment on account of rent allowances. Regulation 7 substitutes a new provision specifying when a local authority shall or shall not make a reference to a rent officer when the landlord is a registered housing association.

These Regulations do not impose a charge on business.