
STATUTORY INSTRUMENTS

1995 No. 625

SOCIAL SECURITY

**The Housing Benefit, Council Tax Benefit and
Income Support (Amendments) Regulations 1995**

Made - - - - 8th March 1995
Laid before Parliament 10th March 1995
Coming into force in accordance with regulation 1(1)

The Secretary of State for Social Security, in exercise of powers conferred upon him by sections 123(1)(d) and (e), 131 (11), 135(1), 137(1) and (2)(h) and (i) and 175(1) and (3) to (6) of the Social Security Contributions and Benefits Act 1992⁽¹⁾ and sections 5(1)(k) and 6(1)(1) 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 reference to the Social Security Advisory Committee⁽⁴⁾ hereby makes the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Housing Benefit, Council Tax Benefit and Income Support (Amendments) Regulations 1995 and shall come into force—

- (a) for the purposes of regulations 1, 3, 4, 6 and 7, on 1st April 1995; and
 - (b) for the purposes of regulations 2—
 - (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 1995, and
 - (ii) in any other case, on 3rd April 1995;
 - (c) for the purposes of regulation 5, on 10th April 1995.
- (2) In these Regulations, unless the context otherwise requires—

(1) 1992 c. 4; sections 123 (e) and 131 of Social Security Contributions and Benefits Act 1992 were substituted by the Local Government and Finance Act 1992 (c. 14), section 103 and Schedule 9, paragraphs 1(1) and 4. Section 137(1) which is an interpretation provision is cited because of the meaning assigned to the word “prescribed”.

(2) 1992 c. 5.

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

(4) See the Social Security Security Administration Act 1992 (c. 5), section 172(1).

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992⁽⁵⁾;

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987⁽⁶⁾;

“the Income Support Regulations” means the Income Support (General) Regulations 1987⁽⁷⁾.

Amendment of regulation 5 of the Housing Benefit Regulations

2.—(1) Regulation 5 of the Housing Benefit Regulations (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) shall be amended as follows.

(2) After paragraph (7A)⁽⁸⁾, there shall be inserted the following paragraphs—

“(7B) This paragraph shall apply to a person who enters residential accommodation—

- (a) for the purpose of ascertaining whether the accommodation suits his needs, and
- (b) with the intention of returning to the dwelling which is normally occupied by him as his home should, in the event, the residential accommodation prove not to suit his needs, and
- (c) while the part of the dwelling which is normally occupied by him as his home is not let, or as the case may be, sublet.

(7C) A person to whom paragraph (7B) applies shall be treated as if he is occupying the dwelling he normally occupies as his home for a period not exceeding, subject to an overall limit of 52 weeks on the absence from that home, 13 weeks beginning from the first day he enters a residential accommodation.”.

(3) In paragraph (8)—

- (a) at the beginning there shall be inserted the words “Subject to paragraph (8C),”;
- (b) for the words “a period not exceeding 52 weeks” there shall be substituted the words “a period not exceeding 13 weeks beginning from the first day of that absence from the home”; and
- (c) in sub-paragraph (c), for the words from “52 weeks” to the end there shall be substituted the words “13 weeks.”.

(4) After paragraph (8A)⁽⁹⁾ there shall be inserted the following paragraphs—

“(8B) This paragraph shall apply to a person who is temporarily absent from the dwelling he normally occupies as his home (“absence”), if—

- (a) he intends to return to occupy the dwelling as his home; and
- (b) while the part of the dwelling which is normally occupied by him has not been let, or as the case may be, sublet; and
- (c) he is—
 - (i) detained in custody on remand pending trial or, as a condition of bail, required to reside in a hostel approved under section 27(1) of the Probation Services Act 1993⁽¹⁰⁾, or, as the case may be, detained pending sentence upon conviction, or
 - (ii) resident in a hospital or similar institution as a patient, or

⁽⁵⁾ S.I. 1992/1814, to which there are amendments not relevant to this regulation.

⁽⁶⁾ S.I. 1987/1971, to which there are amendments not relevant to this regulation.

⁽⁷⁾ S.I. 1987/1967, to which there are amendments not relevant to this regulation.

⁽⁸⁾ Paragraph (7A) was inserted by S.I. 1993/317.

⁽⁹⁾ Paragraph 8A was inserted by S.I. 1995/560.

⁽¹⁰⁾ 1993 c. 47

- (iii) undergoing, or as the case may be, his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation, or
 - (iv) following, in the United Kingdom or elsewhere, a training course, or
 - (v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere, or
 - (vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment, or
 - (vii) a person who is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation, or
 - (viii) a student to whom paragraph (3) or (5)(b) or regulation 48A(1)(11) (circumstances in which certain students are treated as not liable to make payments in respect of a dwelling) does not apply, or
 - (ix) a person who is receiving care provided in residential accommodation other than a person to whom paragraph (7B) applies, or
 - (x) a person who has left the dwelling he occupies as his home through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned, and to whom paragraph (5)(a) or (7A) does not apply; and
- (d) the period of his absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.

(8C) A person to whom paragraph (8B) applies shall be treated as occupying the dwelling he normally occupies at his home during any period of absence not exceeding 52 weeks beginning from the first day of that absence.”.

(5) In paragraph (9) (interpretation)—

(a) before the definition of “patient”, there shall be inserted—

““medically approved” means certified by a medical practitioner;” and

(b) in sub-paragraph (g), for the words “Housing Corporation established by the Housing Act 1964” there shall be substituted the words “Scottish Homes established by the Housing (Scotland) Act 1988(12)”.

Amendment of regulation 2 of the Council Tax Benefit Regulations

3. In regulation 2(2) of the Council Tax Benefit Regulations(13) (interpretation), at the end there shall be added the words “and regulation 4C of these Regulations”.

Insertion of regulation 4C of the Council Tax Benefit Regulations

4. After regulation 4B of the Council Tax Benefit Regulations(14) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), there shall be inserted the following regulation—

(11) Regulation 48A was inserted by S.I. 1990/1546.

(12) 1988 c. 43.

(13) Paragraph (2) was amended by S.I. 1993/688.

(14) S.I. 1995/560.

“4C.—(1) This paragraph shall apply to a person who enters residential accommodation—

- (a) for the purpose of ascertaining whether the accommodation suits his needs, and
- (b) with the intention of returning to the dwelling which is normally occupied by him as his home should, in the event, the residential accommodation prove not to suit his needs, and
- (c) while the part of the dwelling which is normally occupied by him as his home is not let, or as the case may be, sublet.

(2) A person to whom paragraph (1) applies shall be treated as if he is occupying the dwelling he normally occupies as his home for a period not exceeding, subject to an overall limit of 52 weeks on the absence from that home, 13 weeks beginning from the first day he enters a residential accommodation.

(3) Subject to paragraph (5), a person shall be treated as occupying a dwelling as his home while he is temporarily absent from that dwelling for a period not exceeding 13 weeks beginning from the first day of that absence from the home, if—

- (a) he intends to return to occupy the dwelling as his home; and
- (b) while the part of the dwelling normally occupied by him has not been let or, as the case may be, sublet; and
- (c) the period of absence is unlikely to exceed 13 weeks.

(4) This paragraph shall apply to a person who is temporarily absent from the dwelling he normally occupies as his home (“absence”), if—

- (a) he intends to return to occupy the dwelling as his home; and
- (b) while the part of the dwelling which is normally occupied by him has not been let, or as the case may be, sublet; and
- (c) he is—
 - (i) detained in custody on remand pending trial, or as a condition of bail, required to reside in a hostel approved under section 27(1) of the Probation Services Act 1993 (a), or, as the case may be, detained pending sentence upon conviction, or
 - (ii) resident in a hospital or similar institution as a patient, or
 - (iii) undergoing, or as the case may be, his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation, or
 - (iv) following, in the United Kingdom or elsewhere, a training course, or
 - (v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere, or
 - (vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment, or
 - (vii) a person who is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation, or

- (viii) a student to whom paragraph (3) or (5)(b) of regulation 5 of, or regulation 48A(1) of, the Housing Benefit (General) Regulations 1987⁽¹⁵⁾ (circumstances in which certain students are treated as not liable to make payments in respect of a dwelling) does not apply, or
 - (ix) a person who is receiving care provided in residential accommodation other than a person to whom paragraph (1) applies, or
 - (x) a person who has left the dwelling he occupies as his home through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned, and to whom paragraph (5)(a) or (7A) of regulation 5 of the Housing Benefit (General) Regulations 1987⁽¹⁶⁾ does not apply; and
- (d) the period of his absence is unlikely to exceed 52 weeks or, in exceptional circumstances, is unlikely substantially to exceed that period.
- (5) A person to whom paragraph (4) applies shall be treated as occupying the dwelling as his home during any period of absence not exceeding 52 weeks beginning from the first day of that absence.
- (6) In this regulation—
- “medically approved” means certified by a medical practitioner;
- “patient” means a person who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;
- “residential accommodation” means accommodation which is provided by an establishment—
- (a) under section 21 to 24 of the National Assistance Act 1948⁽¹⁷⁾ (provision of accommodation) where—
 - (i) board is available to the claimant, and
 - (ii) the home in which the accommodation is provided is either owned or managed or owned and managed by a local authority, or
 - (b) under section 59 of the Social Work (Scotland) Act 1968⁽¹⁸⁾ (provision of residential and other establishments) where—
 - (i) board is available to the claimant, and
 - (ii) the home in which the accommodation is provided is either owned or managed or owned and managed by a local authority; and
 - (c) registered under Part I of the Registered Homes Act 1984⁽¹⁹⁾;
 - (d) run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;
 - (e) managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament other than a local social services authority;
 - (f) in Scotland, which is a home registered under section 61 of the Social Work (Scotland) Act 1968⁽²⁰⁾ or is an establishment provided by a housing

⁽¹⁵⁾ S.I. 1987/1971; regulation 5(3) and (5)(b) was amended by, and regulation 48A was inserted by, S.I. 1990/1549.

⁽¹⁶⁾ S.I. 1987/1971; paragraph (5) (a) was amended by, and paragraph (7A) was inserted by, S.I. 1993/317

⁽¹⁷⁾ 1948 c. 29; section 21 was amended by the National Health Service and Community Care Act 1990 (c. 19) section 42(1).

⁽¹⁸⁾ 1968 c. 49.

⁽¹⁹⁾ 1984 c. 23.

⁽²⁰⁾ 1968 c. 49; section 61(1A) was inserted by the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, paragraph 10(8); section 61(3) was amended by virtue of the Criminal Procedure (Scotland) Act 1975 (c. 21), section 289C(1)

association registered with the Scottish Homes established by the Housing (Scotland) Act 1988⁽²¹⁾ which provides care equivalent to that given in residential accommodation provided under Part IV of the Social Work (Scotland) Act 1968;

- (g) in premises which are a nursing home or mental nursing home within the meaning of the Registered Homes Act 1984 and which are either registered under Part II of that Act or exempt from registration under section 37 thereof (power to exempt Christian Science Homes);
- (h) in any premises used or intended to be used for the reception of such persons or the provision of such nursing or services as are mentioned in any of the subsections (1)(a) to (c) of section 21 or section 22(1) of the Registered Homes Act 1984 (meaning of nursing home or mental nursing home) or, in Scotland, as are mentioned in section 10(2) of the Nursing Homes Registration (Scotland) Act 1938⁽²²⁾ (interpretation) and which are maintained or controlled by a body instituted by special Act of Parliament or incorporated by Royal Charter; or
- (i) in Scotland,
 - (i) in premises which are a nursing home within the meaning of section 10 of the Nursing Home Registration (Scotland) Act 1938 which are either registered under that Act or exempt from registration under section 6 or 7 thereof⁽²³⁾ (general power to exempt homes and power to exempt Christian Science Homes); or
 - (ii) in premises which are a private hospital within the meaning of section 12 of the Mental Health (Scotland) Act 1984⁽²⁴⁾ (private hospitals), and which are registered under that Act;
- (j) in sub-paragraphs (a) and (b), “board” refers to the availability to the claimant in the home in which his accommodation is provided of cooked or prepared food, where the food is made available to him in consequence solely of his paying the charge for the accommodation or any charge which he is required to pay as a result of occupying the accommodation, or both of those charges, and is made available for his consumption without any further charge to him;

“training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.”

Amendment of Schedule 3 to the Income Support Regulations

5.—(1) Paragraph 4 of Schedule 3 to the Income Support Regulations⁽²⁵⁾ (housing costs) shall be amended as follows.

and Schedule 7C as inserted by the Criminal Law Act 1977 (c. 45), section 63(1) and Schedule 11, paragraphs 5 and 13 and section 289G as inserted by the Criminal Justice Act 1982 (c. 48) section 54.

(21) 1988 c. 43.

(22) 1938 c. 73; section 10 was amended by section 15 of the Mental Health (Scotland) Act 1960 (c. 61) and that amendment is preserved notwithstanding the repeal of that 1960 Act by section 126(1) (a) of the Mental Health (Scotland) Act 1984 (c. 36), subsection (2) of that section 10 was added by section 26 of, and paragraph 14(b) of Schedule 4 to the Health Services Act 1980 (c. 53). Section 10 was also amended by Schedule 1 to the National Health Service (Scotland) Act 1972 (c. 58); by Schedules 7 and 8 to the Nurses, Midwives and Health Visitors Act 1979 (c. 36) and by Schedule 7 to the Health Services Act 1980 (c. 53).

(23) Section 6 was amended by Schedule 6 paragraph 75 to the National Health Service (Scotland) Act 1972 (c. 58) and by Schedule 15 to the National Health Service (Scotland) Act 1978 (c. 29). Section 7 was amended by section 26 and Schedule 4 paragraph 12 to the Health Services Act 1980 (c. 53).

(24) 1984 c. 36.

(25) S.I. 1987/534; the relevant amending instrument is S.I. 1989/534.

- (2) After sub-paragraph (7) there shall be inserted the following sub-paragraphs—
- “(7A) This paragraph shall apply to a person who enters residential accommodation—
- (a) for the purpose of ascertaining whether the accommodation suits his needs, and
 - (b) with the intention of returning to the dwelling which is normally occupied by him as his home should, in the event, the residential accommodation prove not to suit his needs, and
 - (c) while the part of the dwelling which is normally occupied by him as his home is not let, or as the case may be, sublet.
- (7B) A person to whom paragraph (7A) applies shall be treated as if he is occupying the dwelling he normally occupies as his home for a period not exceeding, subject to an overall limit of 52 weeks on the absence from that home, 13 weeks beginning from the first day he enters a residential accommodation.”
- (3) In sub-paragraph (8)—
- (a) at the beginning there shall be inserted the words “Subject to sub-paragraph (8B),”;
 - (b) for the words “a period not exceeding 52 weeks” there shall be substituted the words “a period not exceeding 13 weeks beginning from the first day of that absence from the home”;
 - (c) in head (c) for the words from “52 weeks” to the end there shall be substituted the words “13 weeks.”
- (4) After sub-paragraph (8) there shall be inserted the following sub-paragraphs—
- “(8A) This sub-paragraph shall apply to a person who is temporarily absent from the dwelling he normally occupies as his home (“absence”), if—
- (a) he intends to return to occupy the dwelling as his home; and
 - (b) while the part of the dwelling which is normally occupied by him has not been let, or as the case may be, sublet; and
 - (c) he is—
 - (i) detained in custody on remand pending trial or, as a condition of bail, required to reside in a hostel approved under section 27(1) of the Probation Services Act 1993(26), or, as the case may be, detained pending sentence upon conviction, or
 - (ii) resident in a hospital or similar institution as a patient, or
 - (iii) undergoing, or as the case may be, his partner or his dependent child is undergoing, in the United Kingdom or elsewhere, medical treatment, or medically approved convalescence, in accommodation other than residential accommodation, or
 - (iv) following, in the United Kingdom or elsewhere, a training course, or
 - (v) undertaking medically approved care of a person residing in the United Kingdom or elsewhere, or
 - (vi) undertaking the care of a child whose parent or guardian is temporarily absent from the dwelling normally occupied by that parent or guardian for the purpose of receiving medically approved care or medical treatment, or
 - (vii) a person who is, in the United Kingdom or elsewhere, receiving medically approved care provided in accommodation other than residential accommodation, or

- (viii) a student to whom sub-paragraph (3) or (6)(b) does not apply, or
 - (ix) a person who is receiving care provided in residential accommodation other than a person to whom sub-paragraph (7A) applies, or
 - (x) a person who has left the dwelling he occupies as his home through fear of violence, in that dwelling, or by a person who was formerly a member of the family of the person first mentioned, and to whom sub-paragraph (6)(a) does not apply; and
- (d) the period of his absence is unlikely to exceed 52 weeks or, in exceptional circumstances is unlikely substantially to exceed that period.
- (8B) A person to whom sub-paragraph (8A) applies shall be treated as occupying the dwelling as his home during a period not exceeding 52 weeks of his absence beginning from the first day of that absence.”.
- (5) In sub-paragraph (9)—
- (a) before the definition of “patient” the following definition shall be inserted—
 - “(za) “medically approved” means certified by a medical practitioner;”, and
 - (b) for head (c), there shall be substituted the following—
 - “(c) “training course” means a course of training or instruction provided wholly or partly by or on behalf of or in pursuance of arrangements made with, or approved by or on behalf of, Scottish Enterprise, Highlands and Islands Enterprise, a government department or the Secretary of State.”.

Transitional

6. Where, before the coming into force of these Regulations, a claimant for council tax benefit is absent from the dwelling he normally occupies as his home, he shall, for the purposes of regulation 4C of the Council Tax Benefit Regulations, be treated, while that absence continues, as if he is absent from the dwelling for a period not exceeding 52 weeks from the first day of that absence.

Saving

7. In the case of a claimant who is absent from the dwelling he normally occupies as his home before the coming into force of these Regulations, regulation 5 of the Housing Benefit Regulations and paragraph 4 of Schedule 3 to the Income Support Regulations shall have effect, while that absence continues, as if regulation 2 or 5, as the case may be, of these Regulations had not been made.

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

8th March 1995

Roger Evans
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 (S.I. [1987/1971](#)), the Council Tax Benefit (General) Regulations 1992 (S.I. [1992/1814](#)) and the Income Support (General) Regulations 1987 (S.I. [1987/1967](#)).

These Regulations make and further amend provisions relating to a person's temporary absence from a dwelling which he normally occupies as his home (regulations 2, 4 and 5).

These Regulations also make saving provision in relation to housing benefit and income support claimants whose temporary absence from a dwelling commenced before these Regulations come into force (regulation 7); making transitional provision in respect of council tax benefit recipients who were absent from their dwelling before these Regulations come into force (regulation 6); and consequential provision (regulation 3).

These Regulations do not impose a charge on business.

The Report of the Social Security Advisory Committee dated 22nd February 1995 on the proposals referred to them, together with a statement showing the extent to which these Regulations give effect to the Report and in so far as they do not give effect to it, the reasons why not, are contained in Command Paper Cm. 2783, published by Her Majesty's Stationery Office.