
STATUTORY INSTRUMENTS

2006 No. 213

The Housing Benefit Regulations 2006

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Housing Benefit Regulations 2006.

(2) These Regulations are to be read, where appropriate, with the Consequential Provisions Regulations and, in a case where regulation 5(2) applies, with the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(1).

(3) Except as provided in Schedule 4 to the Consequential Provisions Regulations, these Regulations shall come into force on 6th March 2006.

(4) The regulations consolidated by these Regulations are revoked, in consequence of the consolidation, by the Consequential Provisions Regulations.

Interpretation

2.—(1) In these Regulations—

“the Act” means the Social Security Contributions and Benefits Act 1992;

“the 1973 Act” means the Employment and Training Act 1973(2);

“Abbeyfield Home” means an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society;

“adoption leave” means a period of absence from work on ordinary or additional adoption leave by virtue of section 75A or 75B of the Employment Rights Act 1996(3);

“the Administration Act” means the Social Security Administration Act 1992;

“appropriate DWP office” means an office of the Department for Work and Pensions dealing with state pension credit or an office which is normally open to the public for the receipt of claims for income support or a jobseeker’s allowance;

“assessment period” means such period as is prescribed in regulations 29 to 31 over which income falls to be calculated;

“attendance allowance” means—

(a) an attendance allowance under Part 3 of the Act;

(b) an increase of disablement pension under section 104 or 105 of the Act;

(1) S.I. 2006/214.

(2) 1973 c. 50; amended by the Employment Act 1988 (c. 19), the Employment Act 1989 (c. 38) and the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(3) 1996 c. 18; sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c. 22).

- (c) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part 2 of Schedule 8 to the Act(4);
- (d) an increase of an allowance which is payable in respect of constant attendance under paragraph 4 of Part 1 of Schedule 8 to the Act;
- (e) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(5) or any analogous payment; or
- (f) any payment based on need for attendance which is paid as part of a war disablement pension;

“the benefit Acts” means the Act and the Jobseekers Act(6);

“benefit week” means a period of 7 consecutive days commencing upon a Monday and ending on a Sunday;

“care home” in England and Wales has the meaning assigned to it by section 3 of the Care Standards Act 2000(7) and in Scotland means a care home service within the meaning assigned to it by section 2(3) of the Regulation of Care (Scotland) Act 2001(8);

“child” means a person under the age of 16;

“child tax credit” means a child tax credit under section 8 of the Tax Credits Act;

“the Children Order” means the Children (Northern Ireland) Order 1995(9);

“claim” means a claim for housing benefit;

“claimant” means a person claiming housing benefit;

“close relative” means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or if any of the preceding persons is one member of a couple, the other member of that couple;

“community charge benefit” means community charge benefits under Part 7 of the Act as originally enacted;

“concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit under the Act or the Child Benefit Act 1975(10) are charged;

“the Consequential Provisions Regulations” means the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006(11);

“co-ownership scheme” means a scheme under which the dwelling is let by a housing association and the tenant, or his personal representative, will, under the terms of the tenancy agreement or of the agreement under which he became a member of the association, be entitled, on his ceasing to be a member and subject to any conditions stated in either agreement, to a sum calculated by reference directly or indirectly to the value of the dwelling;

“couple” means—

- (a) a man and a woman who are married to each other and are members of the same household;

(4) See in particular paragraph 7(2)(b) of Schedule 8.

(5) S.I. 1983/686; the relevant amending Instruments are S.I. 1983/1164, 1984/1675 and 2001/420.

(6) 1995 c. 18; the Jobseekers Act 1995 is amended by the Welfare Reform and Pensions Act 1999(c. 30) section 59 and Schedule 7 and the Civil Partnership Act 2004 (c. 33), section 254(1), Schedule 24, Part 7.

(7) 2000 c. 14.

(8) 2001 asp 8.

(9) S.I. 1995/755 (N.I. 2).

(10) 1975 c. 61.

(11) S.I. 2006/217.

- (b) a man and a woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

and for the purposes of sub-paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;

“Crown tenant” means a person who occupies a dwelling under a tenancy or licence where the interest of the landlord belongs to Her Majesty in right of the Crown or to a government department or is held in trust for Her Majesty for the purposes of a government department, except (in the case of an interest belonging to Her Majesty in right of the Crown) where the interest is under the management of the Crown Estate Commissioners;

“date of claim” means the date on which the claim is made, or treated as made, for the purposes of regulation 83 (time and manner in which claims are to be made);

“the Decisions and Appeals Regulations” means the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(12);

“designated authority” means any of the following—

- (a) the Secretary of State;
- (b) a person providing services to the Secretary of State;
- (c) a local authority;
- (d) a person providing services to, or authorised to exercise any functions of, any such authority;

“designated office” means the office designated by the relevant authority for the receipt of claims to housing benefit—

- (a) by notice upon or with a form approved by it for the purpose of claiming housing benefit; or
- (b) by reference upon or with such a form to some other document available from it and sent by electronic means or otherwise on application and without charge; or
- (c) by any combination of the provisions set out in sub-paragraphs (a) and (b) above;

“disability living allowance” means a disability living allowance under section 71 of the Act;

“earnings” has the meaning prescribed in regulation 35 or, as the case may be, 37;

“the Eileen Trust” means the charitable trust of that name established on 29th March 1993 out of funds provided by the Secretary of State for the benefit of persons eligible for payment in accordance with its provisions;

“eligible rent” is to be construed in accordance with regulation 12 (rent);

“employed earner” is to be construed in accordance with section 2(1)(a) of the Act and also includes a person who is in receipt of a payment which is payable under any enactment having effect in Northern Ireland and which corresponds to statutory sick pay or statutory maternity pay;

“employment zone” means an area within Great Britain designated for the purposes of section 60 of the Welfare Reform and Pensions Act 1999(13) and an “employment zone

(12) S.I. 2001/1002.

(13) 1999 c. 30.

programme” means a programme established for such an area or areas designed to assist claimants for a jobseeker’s allowance to obtain sustainable employment;

“employment zone contractor” means a person who is undertaking the provision of facilities in respect of an employment zone programme on behalf of the Secretary of State for Work and Pensions;

“extended payment” means a payment of housing benefit pursuant to regulation 72 (extended payments);

“extended payment (severe disablement allowance and incapacity benefit)” means a payment of housing benefit pursuant to regulation 73 (extended payments (severe disablement allowance and incapacity benefit));

“family” has the meaning assigned to it by section 137(1) of the Act;

“the former Regulations” means the Housing Benefit (General) Regulations 1987⁽¹⁴⁾;

“the Fund” means moneys made available from time to time by the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by him on 24th April 1992 or, in Scotland, on 10th April 1992;

“gateway office” means an appropriate DWP office or an office designated by the appropriate authority which is nominated by the Secretary of State as a gateway office and referred to in a notice upon or attached to a form approved by the appropriate authority for the purpose of claiming housing benefit;

“a guaranteed income payment” means a payment made under article 14(1)(b) or article 21(1) (a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005⁽¹⁵⁾;

“hostel” means a building—

- (a) in which there is provided for persons generally or for a class of persons, domestic accommodation, otherwise than in separate and self-contained premises, and either board or facilities for the preparation of food adequate to the needs of those persons, or both; and
- (b) which is—
 - (i) managed or owned by a registered housing association; or
 - (ii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or agency or a local authority; or
 - (iii) managed by a voluntary organisation or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community; and
- (c) which is not—
 - (i) a care home;
 - (ii) an independent hospital; or
 - (iii) an Abbeyfield Home;

“Housing Act functions” has the same meaning as in section 136(1) of the Administration Act;

“housing association” has the meaning assigned to it by section 1(1) of the Housing Associations Act 1985⁽¹⁶⁾;

“Immigration and Asylum Act” means the Immigration and Asylum Act 1999⁽¹⁷⁾;

⁽¹⁴⁾ S.I. 1987/1971.

⁽¹⁵⁾ S.I. 2005/439.

⁽¹⁶⁾ 1985 c. 69.

⁽¹⁷⁾ 1999 c. 33.

“an income-based jobseeker’s allowance” and “a joint-claim jobseeker’s allowance” have the same meanings as they have in the Jobseekers Act by virtue of section 1(4) of that Act;

“Income Support Regulations” means the Income Support (General) Regulations 1987⁽¹⁸⁾;

“independent hospital” in England and Wales has the meaning assigned to it by section 2 of the Care Standards Act 2000⁽¹⁹⁾ and in Scotland means an independent healthcare service as defined in section 2(5)(a) and (b) of the Regulation of Care (Scotland) Act 2001⁽²⁰⁾;

“the Independent Living Fund” means the charitable trust established out of funds provided by the Secretary of State for the purpose of providing financial assistance to those persons incapacitated by or otherwise suffering from very severe disablement who are in need of such assistance to enable them to live independently;

“the Independent Living Funds” means the Independent Living Fund, the Independent Living (Extension) Fund and the Independent Living (1993) Fund;

“the Independent Living (Extension) Fund” means the Trust of that name established by a deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;

“the Independent Living (1993) Fund” means the Trust of that name established by a deed dated 25th February 1993 and made between the Secretary of State for Social Security of the one part and Robin Glover Wendt and John Fletcher Shepherd of the other part;

“Intensive Activity Period for 50 plus” means the programme known by that name and provided in pursuance of arrangements made by or on behalf of the Secretary of State under section 2 of the 1973 Act, being a programme lasting for up to 52 weeks for any one individual aged 50 years or over on the day that he first joined any such programme, and consisting for that individual of any one or more of the following elements, namely employed earner’s employment, assistance in pursuing self-employed earner’s employment, education and training, work experience, assistance with job search, motivation and skills training;

“invalid carriage or other vehicle” means a vehicle propelled by petrol engine or by electric power supplied for use on the road and to be controlled by the occupant;

“Jobseekers Act” means the Jobseekers Act 1995⁽²¹⁾;

“Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996⁽²²⁾;

“the London Bombings Relief Charitable Fund” means the company limited by guarantee (number 5505072) and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005;

“lone parent” means a person who has no partner and who is responsible for and a member of the same household as a child or young person;

“long tenancy” means a tenancy granted for a term of years certain exceeding twenty one years, whether or not the tenancy is, or may become, terminable before the end of that term by notice given by or to the tenant or by re-entry, forfeiture (or, in Scotland, irritancy) or otherwise and includes a lease for a term fixed by law under a grant with a covenant or obligation for perpetual renewal unless it is a lease by sub-demise from one which is not a long tenancy;

(18) S.I. 1987/1967.

(19) 2000 c. 14.

(20) 2001 asp 8.

(21) 1995 c. 18.

(22) S.I. 1996/207.

“lower rate” where it relates to rates of tax has the same meaning as in the Income and Corporation Taxes Act 1988⁽²³⁾ by virtue of section 832(1) of that Act;

“the Macfarlane (Special Payments) Trust” means the trust of that name, established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

“the Macfarlane (Special Payments) (No. 2) Trust” means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;

“the Macfarlane Trust” means the charitable trust, established partly out of funds provided by the Secretary of State to the Haemophilia Society, for the relief of poverty or distress among those suffering from haemophilia;

“maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part 8 of the Employment Rights Act 1996⁽²⁴⁾;

“maximum rent” means the amount to which the eligible rent is restricted in a case where regulation 13 applies;

“mover” has the meaning assigned to it in paragraph 11 of Schedule 7;

“net earnings” means such earnings as are calculated in accordance with regulation 36 (calculation of net earnings of employed earners);

“net profit” means such profit as is calculated in accordance with regulation 38 (calculation of net profit of self-employed earners);

“the New Deal options” means the employment programmes specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations and the training scheme specified in regulation 75(1)(b)(ii) of those Regulations;

“non-dependant” has the meaning prescribed in regulation 3;

“non-dependant deduction” means a deduction that is to be made under regulation 74 (non-dependant deductions);

“occupational pension” means any pension or other periodical payment under an occupational pension scheme but does not include any discretionary payment out of a fund established for relieving hardship in particular cases;

“ordinary clothing or footwear” means clothing or footwear for normal daily use but does not include school uniforms or clothing or footwear used solely for sporting activities;

“owner” means—

- (a) in relation to a dwelling in England and Wales, the person who, otherwise than as a mortgagee in possession, is for the time being entitled to dispose of the fee simple, whether or not with the consent of other joint owners;
- (b) in relation to a dwelling in Scotland, the proprietor under udal tenure or the proprietor of the dominion utile or the tenant’s or the lessee’s interest in a long tenancy, a kindly tenancy, a lease registered or registerable under the Registration of Leases (Scotland) Act 1857⁽²⁵⁾ or the Land Registration (Scotland) Act 1979⁽²⁶⁾ or a tenant-at-will as defined in section 20(8) of that Act of 1979;

“partner” means—

⁽²³⁾ 1988 c. 1; the definition of “lower rate” was added by the Finance Act 1992 (c. 20), section 9(9).

⁽²⁴⁾ 1996 c. 18.

⁽²⁵⁾ 1857 c. 26.

⁽²⁶⁾ 1979 c. 33.

- (a) where a claimant is a member of a couple, the other member of that couple; or
- (b) where a claimant is polygamously married to two or more members of his household, any such member;

“paternity leave” means a period of absence from work on leave by virtue of section 80A or 80B of the Employment Rights Act 1996(27);

“payment” includes part of a payment;

“pension fund holder” means with respect to a personal pension scheme or retirement annuity contract, the trustees, managers or scheme administrators, as the case may be, of the scheme or contract concerned;

“person affected” shall be construed in accordance with regulation 3 of the Decisions and Appeals Regulations;

“person on income support” means a person in receipt of income support;

“person on state pension credit” means a person in receipt of state pension credit;

“personal pension scheme” has the same meaning as in section 1 of the Pension Schemes Act 1993(28) and, in the case of a self-employed earner, includes a scheme approved by the Commissioners for Her Majesty’s Revenue and Customs under Chapter 4 of Part 14 of the Income and Corporation Taxes Act 1988;

“policy of life insurance” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;

“the qualifying age for state pension credit” means (in accordance with section 1(2)(b) and (6) of the State Pension Credit Act 2002(29))—

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;

“qualifying person” means a person in respect of whom payment has been made from the Fund, the Eileen Trust, the Skipton Fund or the London Bombings Relief Charitable Fund;

“relative” means a close relative, grandparent, grandchild, uncle, aunt, nephew or niece;

“relevant authority” means an authority administering housing benefit;

“remunerative work” has the meaning prescribed in regulation 6 (remunerative work);

“rent” includes all those payments in respect of a dwelling specified in regulation 12(1);

“the Rent Officers Order” means the Rent Officers (Housing Benefit Functions) Order 1997(30) or, as the case may be, the Rent Officers (Housing Benefit Functions) (Scotland) Order 1997(31);

“retirement annuity contract” means a contract or trust scheme approved under Chapter 3 of Part 14 of the Income and Corporation Taxes Act 1988;

(27) Sections 80A and 80B were inserted by section 1 of the Employment Act 2002 (c. 22).

(28) 1993 c. 48; the definition of “personal pension scheme” was substituted by the Welfare Reform and Pensions Act 1999 (c. 30).

(29) 2002 c. 16.

(30) S.I. 1997/1984; the relevant amending Instrument is S.I. 2000/1, 2001/1325, 2004/2101 and 2005/236..

(31) S.I. 1997/1995(S.144); the relevant amending Instrument is S.I. 2000/3.

“second dwelling” has the meaning assigned to it in paragraph 11 of Schedule 7;

“self-employed earner” is to be construed in accordance with section 2(1)(b) of the Act;

“self-employment route” means assistance in pursuing self-employed earner’s employment whilst participating in—

- (a) an employment zone programme; or
- (b) a programme provided or other arrangements made pursuant to section 2 of the 1973 Act (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990⁽³²⁾ (functions in relation to training for employment, etc.);

“shared ownership tenancy” means—

- (a) in relation to England and Wales, a tenancy granted on payment of a premium calculated by reference to a percentage of the value of the dwelling or the cost of providing it;
- (b) in relation to Scotland, an agreement by virtue of which the tenant of a dwelling of which he and the landlord are joint owners is the tenant in respect of the landlord’s interest in the dwelling or by virtue of which the tenant has the right to purchase the dwelling or the whole or part of the landlord’s interest therein;

“single claimant” means a claimant who neither has a partner nor is a lone parent;

“the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions;

“sports award” means an award made by one of the Sports Councils named in section 23(2) of the National Lottery etc. Act 1993⁽³³⁾ out of sums allocated to it for distribution under that section;

“student” has the meaning prescribed in regulation 53 (interpretation);

“subsistence allowance” means an allowance which an employment zone contractor has agreed to pay to a person who is participating in an employment zone programme;

“the Tax Credits Act” means the Tax Credits Act 2002⁽³⁴⁾;

“tax year” means a period beginning with 6th April in one year and ending with 5th April in the next;

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—

- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, Scottish Enterprise or Highlands and Islands Enterprise, the Learning and Skills Council for England or the National Assembly for Wales;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Scottish Enterprise or Highlands and Islands Enterprise or the National Assembly for Wales,

(32) 1990 c. 35.

(33) 1993 c. 39; section 23(2) was amended by art. 2 of the National Lottery etc. Act 1993 (Amendment of section 23) Order 1996 (S.I. 1996/3095).

(34) 2002 c. 21.

but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than under arrangements made under section 2 of the 1973 Act⁽³⁵⁾ or is training as a teacher;

“voluntary organisation” means a body, other than a public or local authority, the activities of which are carried on otherwise than for profit;

“war widower’s pension” means any widower’s pension or allowance granted in respect of a death due to service or war injury and payable by virtue of the Air Force (Constitution) Act 1917⁽³⁶⁾, the Personal Injuries (Emergency Provisions) Act 1939⁽³⁷⁾, the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939⁽³⁸⁾, the Polish Resettlement Act 1947⁽³⁹⁾ or Part 7 or section 151 of the Reserve Forces Act 1980⁽⁴⁰⁾ or a pension or allowance for a widower granted under any scheme mentioned in section 641(1)(e) or (f) of the Income Tax (Earnings and Pension) Act 2003⁽⁴¹⁾;

“water charges” means—

- (a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991⁽⁴²⁾,
- (b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002⁽⁴³⁾

in so far as such charges are in respect of the dwelling which a person occupies as his home;

“working tax credit” means a working tax credit under section 10 of the Tax Credits Act;

“Working Tax Credit Regulations” means the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002⁽⁴⁴⁾;

“young individual” means a single claimant who has not attained the age of 25 years, but does not include such a claimant—

- (a) whose landlord is a registered housing association;
- (b) who has not attained the age of 22 years and has ceased to be the subject of a care order made pursuant to section 31(1)(a) of the Children Act 1989⁽⁴⁵⁾ which had previously been made in respect to him either—
 - (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued after he attained that age;
- (c) who has not attained the age of 22 years and was formerly provided with accommodation under section 20 of the Children Act 1989;
- (d) who has not attained the age of 22 years and has ceased to be subject to a supervision requirement by a children’s hearing under section 70 of the Children (Scotland) Act 1995⁽⁴⁶⁾ (“the 1995 Act”) made in respect of him which had continued after he attained the age of 16 years, other than a case where—

⁽³⁵⁾ 1973 c. 50; section 2 was amended by section 25(1) of the Employment Act 1988 (c. 19), by Part I of Schedule 7 to the Employment Act 1989 (c. 38) and by section 47(1) of the Trade Union Reform and Employment Rights Act 1993(c. 19).

⁽³⁶⁾ 1917 c. 51.

⁽³⁷⁾ 1939 c. 82.

⁽³⁸⁾ 1939 c 83.

⁽³⁹⁾ 1947 c. 19.

⁽⁴⁰⁾ 1980 c. 9.

⁽⁴¹⁾ 2003 c. 1.

⁽⁴²⁾ 1991 c. 56.

⁽⁴³⁾ 2002 asp 3; section 29A was inserted by section 21(1) of the [Water Services etc. \(Scotland\) Act 2005](#) (2005 asp 3).

⁽⁴⁴⁾ S.I. 2002/2005.

⁽⁴⁵⁾ 1989 c. 41.

⁽⁴⁶⁾ 1995 c. 36.

- (i) the ground of referral was based on the sole condition as to the need for compulsory measures of care specified in section 52(1)(i) of the 1995 Act (commission of offences by child); or
 - (ii) he was required by virtue of the supervision requirement to reside with a parent or guardian of his within the meaning of the 1995 Act, or with a friend or relative of his or of his parent or guardian;
- (e) who has not attained the age of 22 years and has ceased to be a child in relation to whom the parental rights and responsibilities were transferred to a local authority under a parental responsibilities order made in accordance with section 86 of the 1995 Act or treated as so vested in accordance with paragraph 3 of Schedule 3 to that Act, either—
- (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued after he attained that age; or
- (f) who has not attained the age of 22 years and has ceased to be provided with accommodation by a local authority under section 25 of the 1995 Act where he has previously been provided with accommodation by the authority under that provision either—
- (i) after he attained the age of 16 years; or
 - (ii) before he attained the age of 16 years, but had continued to be in such accommodation after he attained that age;

“young person” has the meaning prescribed in regulation 19(1)(persons of prescribed description).

(2) References in these Regulations to a person who is liable to make payments shall include references to a person who is treated as so liable under regulation 8 (circumstances in which a person is to be treated as liable to make payments in respect of a dwelling).

(3) For the purposes of these Regulations, a person is on an income-based jobseeker’s allowance on any day in respect of which an income-based jobseeker’s allowance is payable to him and on any day—

- (a) in respect of which he satisfies the conditions for entitlement to an income-based jobseeker’s allowance but where the allowance is not paid in accordance with section 19 or 20A of the Jobseekers Act⁽⁴⁷⁾ (circumstances in which a jobseeker’s allowance is not payable); or
- (b) which is a waiting day for the purposes of paragraph 4 of Schedule 1 to that Act and which falls immediately before a day in respect of which an income-based jobseeker’s allowance is payable to him or would be payable to him but for section 19 or 20A of that Act; or
- (c) in respect of which he is a member of a joint-claim couple for the purposes of the Jobseekers Act and no joint-claim jobseeker’s allowance is payable in respect of that couple as a consequence of either member of that couple being subject to sanctions for the purposes of section 20A of that Act; or
- (d) in respect of which an income-based jobseeker’s allowance or a joint-claim jobseeker’s allowance would be payable but for a restriction imposed pursuant to section 62 or 63 of the Child Support, Pensions and Social Security Act 2000⁽⁴⁸⁾ or sections 7, 8 or 9 of the Social Security Fraud Act 2001⁽⁴⁹⁾ (loss of benefit provisions).

⁽⁴⁷⁾ Section 20A inserted by the Welfare Reform and Pensions Act 1999 (c. 30), section 59 and Schedule 7, paragraph 13.

⁽⁴⁸⁾ 2000 c. 19.

⁽⁴⁹⁾ 2001 c. 11.

(4) For the purposes of these Regulations, the following shall be treated as included in a dwelling—

- (a) subject to sub-paragraphs (b) to (d) any land (whether or not occupied by a structure) which is used for the purposes of occupying a dwelling as a home where either—
 - (i) the occupier of the dwelling acquired simultaneously the right to use the land and the right to occupy the dwelling, and, in the case of a person liable to pay rent for his dwelling, he could not have occupied that dwelling without also acquiring the right to use the land; or
 - (ii) the occupier of the dwelling has made or is making all reasonable efforts to terminate his liability to make payments in respect of the land;
- (b) where the dwelling is a caravan or mobile home, such of the land on which it stands as is used for the purposes of the dwelling;
- (c) where the dwelling is a houseboat, the land used for the purposes of mooring it;
- (d) where in Scotland, the dwelling is situated on or pertains to a croft within the meaning of section 3(1) of the Crofters (Scotland) Act 1993(50), the croft land on which it is situated or to which it pertains.

Definition of non-dependant

3.—(1) In these Regulations, “non-dependant” means any person, except someone to whom paragraph (2) applies, who normally resides with a claimant or with whom a claimant normally resides.

- (2) This paragraph applies to—
 - (a) any member of the claimant’s family;
 - (b) if the claimant is polygamously married, any partner of his and any child or young person who is a member of his household and for whom he or one of his partners is responsible;
 - (c) a child or young person who is living with the claimant but who is not a member of his household by virtue of regulation 21 (circumstances in which a person is to be treated as being or not being a member of the same household);
 - (d) subject to paragraph (3), a person who jointly occupies the claimant’s dwelling and is either a co-owner of that dwelling with the claimant or his partner (whether or not there are other co-owners) or is liable with the claimant or his partner to make payments in respect of his occupation of the dwelling;
 - (e) subject to paragraph (3)—
 - (i) any person who is liable to make payments on a commercial basis to the claimant or the claimant’s partner in respect of the occupation of the dwelling;
 - (ii) any person to whom or to whose partner the claimant or the claimant’s partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling; or
 - (iii) any other member of the household of the person to whom or to whose partner the claimant or the claimant’s partner is liable to make payments on a commercial basis in respect of the occupation of the dwelling;
 - (f) a person who lives with the claimant in order to care for him or a partner of his and who is engaged by a charitable or voluntary organisation which makes a charge to the claimant or his partner for the services provided by that person.

(3) Sub-paragraphs (d) and (e) of paragraph (2) shall not apply to any person who is treated as if he were not liable to make payments in respect of a dwelling under paragraph (1) of regulation 9 (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling).

(4) For the purposes of this regulation and regulation 9 a person resides with another only if they share any accommodation except a bathroom, a lavatory or a communal area within the meaning prescribed in paragraph 8 of Schedule 1 but not if each person is separately liable to make payments in respect of his occupation of the dwelling to the landlord.

Cases in which section 1(1A) of the Administration Act is disapplied

4. Section 1(1A) of the Administration Act (requirement to state national insurance number) shall not apply—

- (a) to a claim for housing benefit where the person making the claim, or in respect of whom the claim is made, is liable to make payments in respect of a dwelling which is a hostel;
- (b) to any child or young person in respect of whom housing benefit is claimed.

Persons who have attained the qualifying age for state pension credit

5.—(1) These Regulations apply to a person who—

- (a) has not attained the qualifying age for state pension credit; or
- (b) has attained the qualifying age for state pension credit if he, or if he has a partner, his partner, is a person on income support or on an income-based jobseeker's allowance.

(2) Regulation 72 and Schedule 7 (extended payments) apply to a person if he, or if he has a partner, his partner, has attained the qualifying age for state pension credit.

(3) Except as provided in paragraphs (1) and (2), these Regulations shall not apply in relation to any person if he, or if he has a partner, his partner, has attained the qualifying age for state pension credit.

Remunerative work

6.—(1) Subject to the following provisions of this regulation, a person shall be treated for the purposes of these Regulations as engaged in remunerative work if he is engaged, or, where his hours of work fluctuate, he is engaged on average, for not less than 16 hours a week, in work for which payment is made or which is done in expectation of payment.

(2) Subject to paragraph (3), in determining the number of hours for which a person is engaged in work where his hours of work fluctuate, regard shall be had to the average of hours worked over—

- (a) if there is a recognisable cycle of work, the period of one complete cycle (including, where the cycle involves periods in which the person does no work, those periods but disregarding any other absences);
- (b) in any other case, the period of 5 weeks immediately prior to the date of claim, or such other length of time as may, in the particular case, enable the person's weekly average hours of work to be determined more accurately.

(3) Where, for the purposes of paragraph (2)(a), a person's recognisable cycle of work at a school, other educational establishment or other place of employment is one year and includes periods of school holidays or similar vacations during which he does not work, those periods and any other periods not forming part of such holidays or vacations during which he is not required to work shall be disregarded in establishing the average hours for which he is engaged in work.

(4) Where no recognisable cycle has been established in respect of a person's work, regard shall be had to the number of hours or, where those hours will fluctuate, the average of the hours, which he is expected to work in a week.

(5) A person shall be treated as engaged in remunerative work during any period for which he is absent from work referred to in paragraph (1) if the absence is either without good cause or by reason of a recognised, customary or other holiday.

(6) A person on income support or an income-based jobseeker's allowance for more than 3 days in any benefit week shall be treated as not being in remunerative work in that week.

(7) A person shall not be treated as engaged in remunerative work on any day on which the person is on maternity leave, paternity leave or adoption leave, or is absent from work because he is ill.

(8) A person shall not be treated as engaged in remunerative work on any day on which he is engaged in an activity in respect of which—

- (a) a sports award has been made, or is to be made, to him; and
- (b) no other payment is made or is expected to be made to him.