
STATUTORY INSTRUMENTS

2006 No. 213

The Housing Benefit Regulations 2006

PART 4

Membership of a family

Persons of prescribed description

19.—(1) Subject to paragraph (2), a person of a prescribed description for the purposes of section 137(1) of the Act as it applies to housing benefit (definition of family) is a person aged 16 or over but under 19 who is treated as a child for the purposes of section 142 of the Act (meaning of child), and in these Regulations such a person is referred to as a “young person”.

(2) Paragraph (1) shall not apply to a person who is—

- (a) on income support or an income-based jobseeker’s allowance;
- (b) receiving advanced education within the meaning of regulation 12(2) of the Income Support Regulations (relevant education); or
- (c) a person to whom section 6 of the Children (Leaving Care) Act 2000(1) (exclusion from benefits) applies.

(3) A person of a prescribed description for the purposes of section 137(1) of the Act as it applies to housing benefit (definition of the family) includes a child or young person in respect of whom section 145A of that Act(2) applies for the purposes of entitlement to child benefit but only for the period prescribed under section 145A(1) of that Act.

Circumstances in which a person is to be treated as responsible or not responsible for another

20.—(1) Subject to the following provisions of this regulation a person shall be treated as responsible for a child or young person who is normally living with him and this includes a child or young person to whom paragraph (3) of regulation 19 applies.

(2) Where a child or young person spends equal amounts of time in different households, or where there is a question as to which household he is living in, the child or young person shall be treated for the purposes of paragraph (1) as normally living with—

- (a) the person who is receiving child benefit in respect of him; or
- (b) if there is no such person—
 - (i) where only one claim for child benefit has been made in respect of him, the person who made that claim, or
 - (ii) in any other case the person who has the primary responsibility for him.

(1) 2000 c. 35.

(2) Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c. 21).

(3) For the purposes of these Regulations a child or young person shall be the responsibility of only one person in any benefit week and any person other than the one treated as responsible for the child or young person under this regulation shall be treated as not so responsible.

Circumstances in which a person is to be treated as being or not being a member of the household

21.—(1) Subject to paragraphs (2) to (4), the claimant and any partner and, where the claimant or his partner is treated as responsible by virtue of regulation 20 (circumstances in which a person is to be treated as responsible or not responsible for another) for a child or young person, that child or young person and any child of that child or young person, shall be treated as members of the same household notwithstanding that any of them is temporarily living away from the other members of his family.

(2) Paragraph (1) shall not apply to a person who is living away from the other members of his family where—

- (a) that person does not intend to resume living with the other members of his family; or
- (b) his absence from the other members of his family is likely to exceed 52 weeks, unless there are exceptional circumstances (for example where the person is in hospital or otherwise has no control over the length of his absence) and the absence is unlikely to be substantially more than 52 weeks.

(3) A child or young person shall not be treated as a member of the claimant's household where he is—

- (a) placed with the claimant or his partner by a local authority under section 23(2)(a) of the Children Act 1989⁽³⁾ or by a voluntary organisation under section 59(1)(a) of that Act, or in Scotland boarded out with the claimant or his partner under a relevant enactment; or
- (b) placed, or in Scotland boarded out, with the claimant or his partner prior to adoption; or
- (c) placed for adoption with the claimant or his partner in accordance with the Adoption and Children Act 2002⁽⁴⁾ or the Adoption Agencies (Scotland) Regulations 1996⁽⁵⁾.

(4) Subject to paragraph (5), paragraph (1) shall not apply to a child or young person who is not living with the claimant and he—

- (a) is being looked after by, or in Scotland is in the care of, a local authority under a relevant enactment; or
- (b) has been placed, or in Scotland boarded out, with a person other than the claimant prior to adoption; or
- (c) has been placed for adoption in accordance with the Adoption and Children Act 2002 or the Adoption Agencies (Scotland) Regulations 1996.

(5) An authority shall treat a child or young person to whom paragraph (4)(a) applies as being a member of the claimants' household in any benefit week where—

- (a) that child or young person lives with the claimant for part or all of that benefit week; and
- (b) the authority considers that it is reasonable to do so taking into account the nature and frequency of that child's or young person's visits.

(6) In this regulation "relevant enactment" means the Army Act 1955⁽⁶⁾, the Air Force Act 1955⁽⁷⁾, the Naval Discipline Act 1957⁽⁸⁾, the Matrimonial Proceedings Children Act 1958⁽⁹⁾,

(3) 1989 c. 41.
(4) 2002 c. 38.
(5) S.I. 1996/3266.
(6) 1955 c. 18.
(7) 1955 c. 19.

the Social Work (Scotland) Act 1968**(10)**, the Family Law Reform Act 1969**(11)**, the Children and Young Persons Act 1969**(12)**, the Matrimonial Causes Act 1973**(13)**, the Children Act 1975**(14)**, the Domestic Proceedings and Magistrates' Courts Act 1978**(15)**, the Adoption (Scotland) Act 1978**(16)**, the Child Care Act 1980**(17)**, the Family Law Act 1986**(18)**, the Children Act 1989**(19)** and the Children (Scotland) Act 1995**(20)**.

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- (8)** 1957 c. 53.
 - (9)** 1958 c. 40.
 - (10)** 1968 c. 49.
 - (11)** 1969 c. 46.
 - (12)** 1969 c. 54.
 - (13)** 1973 c. 18.
 - (14)** 1975 c. 72.
 - (15)** 1978 c. 22.
 - (16)** 1978 c. 28.
 - (17)** 1980 c. 5.
 - (18)** 1986 c. 55.
 - (19)** 1989 c. 41.
 - (20)** 1995 c. 36.