
STATUTORY INSTRUMENTS

2006 No. 213

The Housing Benefit Regulations 2006

PART 4

Membership of a family

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⁽¹⁾ 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⁽²⁾ or the Adoption Agencies (Scotland) Regulations 1996⁽³⁾.

(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

⁽¹⁾ 1989 c. 41.

⁽²⁾ 2002 c. 38.

⁽³⁾ S.I. 1996/3266.

(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(4), the Air Force Act 1955(5), the Naval Discipline Act 1957(6), the Matrimonial Proceedings Children Act 1958(7), the Social Work (Scotland) Act 1968(8), the Family Law Reform Act 1969(9), the Children and Young Persons Act 1969(10), the Matrimonial Causes Act 1973(11), the Children Act 1975(12), the Domestic Proceedings and Magistrates' Courts Act 1978(13), the Adoption (Scotland) Act 1978(14), the Child Care Act 1980(15), the Family Law Act 1986(16), the Children Act 1989(17) and the Children (Scotland) Act 1995(18).

(4) 1955 c. 18.
(5) 1955 c. 19.
(6) 1957 c. 53.
(7) 1958 c. 40.
(8) 1968 c. 49.
(9) 1969 c. 46.
(10) 1969 c. 54.
(11) 1973 c. 18.
(12) 1975 c. 72.
(13) 1978 c. 22.
(14) 1978 c. 28.
(15) 1980 c. 5.
(16) 1986 c. 55.
(17) 1989 c. 41.
(18) 1995 c. 36.