

2010 No. 297 (W. 39)

HOUSING, WALES

**The Housing Renewal Grants
(Amendment) (Wales) Regulations
2010**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend (in relation to Wales) the Housing Renewal Grants Regulations 1996 (S.I. 1996/2890) (“the principal Regulations”), which set out the means test for determining the amount of grant which may be paid by local housing authorities under Chapter 1 of Part 1 of the Housing Grants, Construction and Regeneration Act 1996. The principal Regulations are amended as follows:

Regulation 3(2) amends regulation 10, so that the applicable amount as regards a person receiving income-related employment and support allowance is £1.

Regulation 3(3) amends regulation 19, so that where a person is in receipt of earnings on the grounds of incapacity for work or limited capability for work, or is paid employment and support allowance, the relevant child care charges incurred by that person will be determined when calculating an applicant's means for the purpose of determining the amount of grant which may be paid.

Regulation 3(4) amends regulation 41 and makes consequential provision for changes to the system for funding English students, made by the Apprenticeships, Skills, Children and Learning Act 2009.

Schedule 1 to the principal Regulations lists the amounts that apply to a relevant person (defined in regulation 5 of the principal Regulations) as part of the calculation made to determine the applicable amount (defined in regulation 10 of the principal Regulations). These amounts are then used in the calculation of grant which may be paid. Schedule 2 lists sums to be disregarded in the determination of income, Schedule

3 lists sums to be disregarded in the determination of income other than earnings, and Schedule 4 lists the capital to be disregarded in the determination of capital.

Regulation 2(4) amends Schedule 1 to include employment and support allowances in the amounts that apply. Regulation 2(5) to (7) amends Schedules 2, 3 and 4 so that income-related employment and support allowance is disregarded in the determination of earnings, income other than earnings and capital.

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**The Housing Renewal Grants
(Amendment) (Wales) Regulations
2010**

Made 10 February 2010

Laid before the National Assembly for Wales
11 February 2010

Coming into force 4 March 2010

The Welsh Ministers, in exercise of the powers conferred upon the Secretary of State by sections 30 and 146 of the Housing Grants, Construction and Regeneration Act 1996⁽¹⁾, and now vested in them make the following Regulations:

Title, commencement and application

1.—(1) The title of these Regulations is the Housing Renewal Grants (Amendment) (Wales) Regulations 2010 and they come into force on 4 March 2010.

(2) These Regulations apply to applications for grants which fall to be approved on or after 4 March 2010 by local housing authorities in Wales.

(1) 1996 c. 53. The functions of the Secretary of State under sections 30 and 146 of the Housing Grants, Construction and Regeneration Act 1996 were transferred to the National Assembly for Wales by article 2 of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672; see the entry in Schedule 1 for the Housing Grants, Construction and Regeneration Act 1996). By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32) the functions formerly exercisable by the National Assembly for Wales are now exercisable by the Welsh Ministers.

Amendment of the Housing Renewal Grants Regulations 1996

2. The Housing Renewal Grants Regulations 1996(1) are amended in accordance with regulation 3.

3.—(1) In regulation 2 (interpretation)—

(a) After the definition of “community charge benefits” insert—

““contributory employment and support allowance” means an employment and support allowance entitlement to which depends on satisfying the basic conditions set out in subsection (3) of section 1 of the Welfare Reform Act 2007(2), and the requirements of subsection (2)(a) of that section;”;

(b) after the definition of “employed earner” insert—

““employment and support allowance” means an employment and support allowance payable under Part 1 of the Welfare Reform Act 2007;”;

(c) after the definition of “income-related benefit” insert—

““income-related employment and support allowance” means an employment and support allowance entitlement to which depends on satisfying the basic conditions set out in subsection (3) of section 1 of the Welfare Reform Act 2007, and the requirements of subsection (2)(b) of that section;”;

(d) after the definition of “invalid carriage or other vehicle” insert—

““jobseeker's allowance” means an allowance payable under the Jobseekers Act 1995(3);”;

(e) after the definition of “the MacFarlane Trusts” insert—

““main phase contributory employment and support allowance” means contributory employment and support allowance where the calculation of the amount payable in respect of the claimant includes an addition under section 2(1)(b) of the Welfare Reform Act 2007;

(1) S.I. 1996/2890. Relevant amending instruments are S.I. 2004/253 (W. 28), S.I. 2006/2801 (W. 240) and S.I. 2008/2377 (W. 206).

(2) 2007 c. 5.

(3) 1995 c. 18.

“main phase employment and support allowance” means an employment and support allowance where the calculation of the amount payable in respect of the claimant includes an addition under section 2(1)(b) or 4(2)(b) of the Welfare Reform Act 2007;” and

(f) for the definition of “young person” substitute—

““young person” means a person who is—

(a) a qualifying young person within the meaning of section 142(2)(a) of the 1992 Act; and

(b) not in receipt of income support⁽¹⁾, jobseeker's allowance, incapacity benefit⁽²⁾ or employment and support allowance;”.

(2) In regulation 10 (the applicable amount), in paragraph (3), for sub-paragraph (a) substitute—

(a) “a relevant person who is in receipt of, and entitled to be in receipt of—

(i) council tax benefit⁽³⁾;

(ii) housing benefit⁽⁴⁾;

(iii) income-based jobseeker's allowance⁽⁵⁾;

(iv) income-related employment and support allowance; or

(v) income support;”.

(3) In regulation 19 (treatment of child care charges⁽⁶⁾)—

(a) in paragraph (1A)—

(i) omit the word “or” where it appears at the end of sub-paragraph (c); and

(ii) for sub-paragraph (d) substitute—

“(d) is credited with earnings on the grounds of incapacity for work or limited capability for work under

(1) For the definition of “income support” *see* regulation 2 (interpretation) of the Housing Renewal Grants Regulations 1996 (S.I. 1996/2890) (“the principal Regulations”).

(2) For the definition of “incapacity benefit” *see* regulation 2 of the principal Regulations.

(3) For the definition of “council tax benefit” *see* regulation 2 of the principal Regulations.

(4) For the definition of “housing benefit” *see* regulation 2 of the principal Regulations.

(5) For the definition of “income-based jobseeker’s allowance” *see* regulation 2 of the principal Regulations.

(6) Paragraphs (1A) and (1B) of regulation 19 were inserted by regulations 4 and 13(b) of S.I. 2006/2801.

- regulation 8B of the Social Security (Credits) Regulations 1975⁽¹⁾; or
- (e) is paid employment and support allowance.”;
 - (b) in paragraph (1B) in sub-paragraph (a), after “short-term incapacity benefit” insert “, employment and support allowance”;
 - (c) in paragraph (3)—
 - (i) at the end of sub-paragraph (b) insert “or the Employment and Support Allowance Regulations 2008⁽²⁾”;
 - (ii) for sub-paragraph (c) substitute—
 - “(c) the relevant person—
 - (i) is or is treated as incapable of work, and has been incapable or treated as incapable of work in accordance with the provisions of, and regulations made under, Part XIIA of the 1992 Act (incapacity for work⁽³⁾) for a continuous period of not less than 196 days, and for this purpose any two or more periods separated by a break of not more than 56 days shall be treated as one continuous period; or
 - (ii) has, or is being treated as having, limited capability for work and has had, or been treated as having, limited capability for work in accordance with the Employment and Support Allowance Regulations 2008 for a continuous period of not less than 196 days, and for this purpose any two or more periods separated by a break of not more than 84 days shall be treated as one continuous period.”
 - (iii) in sub-paragraph (d) after paragraph (vi) insert—
 - “(vii) main phase employment and support allowance;”.

(1) Regulation 8B of the Social Security (Credits) Regulations 1975 (S.I. 1975/556) was inserted by regulation 2(6) of S.I. 1996/2367.

(2) S.I. 2008/794.

(3) “the 1992 Act” is defined in regulation 2 of the Housing Renewal Grants Regulations 1996, as “the Social Security and Benefits Act 1992” (1992 c. 4). Part XIIA of that Act was inserted by section 5 of the Social Security (Incapacity for Work) Act 1994 (1994 c. 18).

- (4) In regulation 41 (students – interpretation) in the definition of “access funds”(1) in sub-paragraph (d)—
- (a) after “learner support funds” insert—
 - “or “discretionary support funds”(2)”;
 - (b) after “the Learning and Skills Act 2000” insert—
 - “or by the Chief Executive for Skills Funding under the Apprenticeships, Skills, Children, and Learning Act 2009(3)”.
- (5) In Schedule 1 (applicable amounts)—
- (a) in sub-paragraph (1) of paragraph 1—
 - (i) in the column headed “*Person or couple*”, below the entry at (b), insert “(c) any age and entitled to main phase employment and support allowance”; and
 - (ii) in the column headed “*Amount*”, below the entry at (b) insert “(c) £64.30”;
 - (b) in sub-paragraph (2) of paragraph 1—
 - (i) in the column headed “*Person or couple*”, below the entry at (b), insert “(c) any age and entitled to main phase employment and support allowance”; and
 - (ii) in the column headed “*Amount*”, below the entry at (b) insert “(c) £64.30”;
 - (c) in paragraph 12 (additional condition for the higher pensioner and disability premiums), for sub-paragraph (1)(a)(i) and (ii) substitute—
 - “(i) is in receipt of one or more of the following benefits: attendance allowance(4), disability living allowance(5), the disability element or the severe disability element of working tax credit as specified in regulation 20(1)(b) and (f) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(6), mobility supplement(7), long-term incapacity benefit under Part II of the 1992 Act, main phase

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- (1) The definition of “access funds” was inserted into Regulation 41 by S.I. 2001/2073 (W.145). This has been amended, in relation to Wales, by S.I. 2002/2798 (W.266) and S.I. 2005/3238 (W.243).
 - (2) “discretionary support funds” replaced “learner support funds”.
 - (3) 2009 c.22
 - (4) For the definition of “attendance allowance” see regulation 2 of the principal Regulations.
 - (5) For the definition of “disability living allowance” see regulation 2 of the principal Regulations.
 - (6) S.I. 2002/2005.
 - (7) For the definition of “mobility supplement” see regulation 2 of, and paragraph 7 of Schedule 3 to, the principal Regulations.

contributory employment and support allowance, or severe disablement allowance under Part III of the 1992 Act, but in the case of long-term incapacity benefit, main phase employment and support allowance or severe disablement allowance only where it is paid in respect of him, or;

(ii) was in receipt of long-term incapacity benefit under Part II of the 1992 Act or main phase contributory employment and support allowance when entitlement to that benefit or allowance ceased on account of the payment of a retirement pension under the 1992 Act and, if the long-term incapacity benefit or main phase employment and support allowance was payable to his partner, the partner is still a member of the family, or”;

(d) for paragraph 13A (enhanced disability premium), substitute—

“Enhanced disability premium

13A. The condition is that—

(a) the care component of disability living allowance is payable, or but for a suspension of benefit in accordance with regulations under section 113(2) of the 1992 Act or an abatement as a consequence of hospitalisation, would be payable, at the highest rate prescribed under section 72(3) of the 1992 Act; or

(b) contributory employment and support allowance which includes the support component is payable,

in respect of the relevant person or a member of the relevant person's family, who is aged less than 60.”

(6) In Schedule 2 (sums to be disregarded in the determination of earnings), for sub-paragraph (a) of paragraph 12 substitute—

“(a) is in receipt of council tax benefit, guarantee credit⁽¹⁾, housing benefit, income-based jobseeker's allowance,

(1) For the definition of “guarantee credit” see regulation 2 of the Housing Renewal Grants Regulations 1996.

income-related employment and support allowance or income support; or”.

(7) In Schedule 3 (sums to be disregarded in the determination of income other than earnings)—

(a) for sub-paragraph (a) of paragraph 4 substitute—

“(a) is in receipt of council tax benefit, guarantee credit, housing benefit, income-based jobseeker's allowance, income-related employment and support allowance or income support; or”; and

(b) for paragraph 6 substitute—

“Any concessionary payment made to compensate for the non-payment of—

(a) any payment specified in paragraph 5 or 8;

(b) an income-based jobseeker's allowance;

(c) income-related employment and support allowance;

(d) income support; or

(e) state pension credit.”

(8) In Schedule 4 (capital to be disregarded)—

(a) in paragraph 6 for sub-paragraph (a) substitute—

“(a) is in receipt of council tax benefit, guarantee credit, housing benefit, income-based jobseeker's allowance, income-related employment and support allowance; or income support; or”; and

(b) in paragraph 9, after sub-paragraph (f) insert—

“(g) income-related employment and support allowance.”.

Jocelyn Davies

Deputy Minister for Housing and Regeneration under authority of the Minister for Environment, Sustainability and Housing, one of the Welsh Ministers.

10 February 2010.