SCOTTISH STATUTORY INSTRUMENTS

2003 No. 461

HOUSING

The Housing Grants (Assessment of Contributions) (Scotland) Regulations 2003

Made - - - - 29th September 2003

Coming into force - - 1st October 2003

The Scottish Ministers in exercise of the powers conferred by section 240A of the Housing (Scotland) Act 1987(**1**) and all other powers enabling them in that behalf, hereby make the following Regulations, a draft of which has, in accordance with section 240A(3) of that Act, been laid before and approved by resolution of the Scottish Parliament:

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Housing Grants (Assessment of Contributions) (Scotland) Regulations 2003 and shall come into force on 1st October 2003.

Interpretation

2.—(1) In these Regulations–

"the Act" means the Housing (Scotland) Act 1987;

"the 1992 Act" means the Social Security Contributions and Benefits Act 1992(**2**);

"allowable deductions" means the deductions and allowances specified in Chapter VII of Part II;

"application" means, as the case may be, an application for improvement grant, an application for repairs grant or an application for grant for a means of escape from fire in a house in multiple occupation, all under Part XIII of the Act;

(**1**) 1987 c. 26. Section 240A was inserted by the Housing (Scotland) Act 2001 (asp 10), section 99.
(**2**) 1992 c. 4 as amended by the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6.

"assessment period" means the period of 52 weeks which ends immediately before the date of the application;

"attendance allowance" means–

(a) an attendance allowance under section 64 of the 1992 Act;

(b) an increase of disablement pension under section 104 of the 1992 Act;

(c) a payment under regulations made in exercise of the power conferred by paragraph 7(2)(b) of Part II of Schedule 8 to the 1992 Act (constant attendance allowance);

(d) an increase of an allowance which is payable in respect of constant attendance under a scheme under, or having effect under, paragraph 4 of Part I of Schedule 8 to the 1992 Act(**3**) (industrial diseases benefit schemes);

(e) any payment based on need for attendance which is paid as part of a war disablement pension;

(f) a payment by virtue of article 14, 15, 16, 43 or 44 of the Personal Injuries (Civilians) Scheme 1983(**4**) or any analogous payment;

"charitable body" means any body–

(a) to which the Commissioners have given intimation, which has not previously been withdrawn, that relief will be due under section 505 of the Income and Corporation Taxes Act 1988(**5**) in respect of income of the body which is applicable and applied to charitable purposes only, being a body which is–

(i) established under the law of Scotland; or

(ii) which is managed wholly or mainly in or from Scotland; or

(b) which is–

(i) registered as a charity in England and Wales under section 3 of the Charities Act 1993(**6**); or

(ii) a charity which is not required to register by virtue of subsection (5) of that section;

"child benefit" means child benefit under Part IX of the 1992 Act;

"college of further education" has the meaning given in Part I of the Further and Higher Education (Scotland) Act 1992(**7**);

"disability element of the working tax credit" has the meaning given in section 11(3) and (4) of the Tax Credits Act 2002(**8**);

"disability living allowance" means a disability living allowance under section 71 of the 1992 Act;

"disabled person's tax credit" means a disabled person's tax credit under section 129 of the 1992 Act(**9**);

"employed earner" shall be construed in accordance with section 2(1)(a) of the 1992 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;

(**3**) See section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975 (c. 16) which was repealed, with savings, by the Social Security (Consequential Provisions) Act 1992 (c. 6).
(**4**) S.I.1983/686; relevant amending instruments are S.I. 1983/1164 and 1984/1675.
(**5**) 1988 c. 1.
(**6**) 1993 c. 10.
(**7**) 1992 c. 37.
(**8**) 2002 c. 21.
(**9**) See section 1 of, and paragraphs 1 and 2(h) of Schedule 1 to, the Tax Credits Act 1999 (c. 10).

"guarantee credit" shall be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002(**10**);

"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 in Scotland on 10th April 1992 or in England and Wales on 24th April 1992;

"housing benefit" means housing benefit under Part VII of the 1992 Act;

"incapacity benefit" means long-term incapacity benefit or short-term incapacity benefit under Part II of the 1992 Act;

"income-based jobseeker's allowance" means an income-based jobseeker's allowance by virtue of section 1(4) of the Jobseekers Act 1995(**11**);

"income support" means income support under Part VII of the 1992 Act;

"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 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 (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;

"the Independent Living Funds" means the Independent Living (Extension) Fund, the Independent Living Fund or the Independent Living (1993) Fund;

"institution within the higher education sector" shall be construed as in Part II of the Further and Higher Education (Scotland) Act 1992(**12**);

"liferenter" means any liferenter or joint liferenter of the house to which an application relates;

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994(**13**);

"lower rate" where it relates to rates of tax has the same meaning as in the Income and Corporation Taxes Act 1988 by virtue of section 832(1) of that Act(**14**);

"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;

"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 Trusts" means the MacFarlane Trust, the MacFarlane (Special Payments) Trust and the MacFarlane (Special Payments) (No. 2) Trust;

(**10**) 2002 c. 16.
(**11**) 1995 c. 18.
(**12**) 1992 c. 37.
(**13**) 1994 c. 39.
(**14**) 1988 c. 1; the definition of "lower rate" was inserted by the Finance Act 1992 (c. 20), section 9.

"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 VIII of the Employment Rights Act 1996(**15**);

"mobility supplement" means a supplement under article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(**16**) (including such a supplement by virtue of any other scheme or order) or under article 25A of the Personal Injuries (Civilians) Scheme 1983(**17**) or any payment intended to compensate for the non-payment of such a supplement;

"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;

"occupational pension scheme" has the meaning given by section 1 of the Pension Schemes Act 1993(**18**);

"owner" means any owner or joint owner of the house to which an application relates;

"payment" includes part of a payment;

"personal pension scheme" has the same meaning as in section 1 of the Pension Schemes Act 1993 and, in the case of a self-employed earner, includes a scheme approved by the Board of Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(**19**);

"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;

"relevant person" has the meaning given by regulation 4;

"rental income" means any income received (less any allowances which are deductable for income tax purposes) in return for allowing a person to occupy any property owned by the relevant person;

"retirement annuity contract" means a contract or trust scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988;

"retirement pension" means a category A, B, C or D pension payable in terms of sections 44 to 46, 48A to 51 and 78 of the 1992 Act;

"self-employed earner" shall be construed in accordance with section 2(1)(b) of the 1992 Act;

"severe disablement allowance" means severe disablement allowance under section 68 of the 1992 Act(**20**);

"statutory maternity pay" means statutory maternity pay under Part XII of the 1992 Act;

"statutory sick pay" means statutory sick pay under Part XI of the 1992 Act;

"tenant" means any tenant or joint tenant of the house to which an application relates;

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

"war disablement pension" has the meaning given in section 150(2) of the 1992 Act.

(**15**) 1996 c. 18.
(**16**) S.I. 1983/883; article 26A was inserted by S.I. 1983/1116.
(**17**) S.I. 1983/686; article 25A was inserted by S.I. 1983/1164.
(**18**) 1993 c. 48.
(**19**) 1988 c. 1.
(**20**) Section 68 was amended by section 9 of, paragraph 18 of Schedule 1 to and Schedule 2 to, the Social Security (Incapacity for Work) Act 1994 (c. 18).

(2) In these Regulations, unless the context otherwise requires–

(a) any reference to a numbered regulation is a reference to the regulation bearing that number in these Regulations;

(b) any reference to a numbered paragraph is a reference to the paragraph bearing that number in that regulation; and

(c) any reference to a numbered Schedule is a reference to the Schedule to these Regulations bearing that number.

PART II

ASSESSMENT OF CONTRIBUTIONS – OWNER AND TENANT OCCUPIERS

CHAPTER I:

GENERAL

Applications to which Part II applies

3. The classes of application to which this Part of these Regulations apply are–

(a) the application by an owner where paragraph (d) or (e) does not apply and–

(i) that owner occupies or intends to occupy the house to which the application relates as that owner's main or only residence; or

(ii) any member of that owner's family occupies or intends to occupy that house as that member's main or only residence;

(b) the application by a tenant in terms of section 236A of the Act where paragraph (d) or (e) does not apply and–

(i) that tenant occupies or intends to occupy the house to which the application relates as that tenant's main or only residence; or

(ii) any member of that tenant's family occupies or intends to occupy that house as that member's main or only residence;

(c) the application by a liferenter where paragraph (d) or (e) does not apply and that liferenter is responsible for the works detailed in the application;

(d) the application by a disabled occupant in respect of works to which section 236(2)(a)(ii) of the Act applies and where paragraph (e) does not apply;

(e) the application which relates to improvement works to which section 236(2)(a)(ii) of the Act applies where–

(i) the disabled occupant is below the age of 16; and

(ii) the application is made by a person who, in respect of that disabled occupant–

(aa) is in receipt of child benefit; or

(bb) if there is no such person–

(aaA)
where only one claim for child benefit has been made in respect of that disabled occupant, the person who made that claim; or

(bbB)
in any other case the person who has the primary responsibility for that disabled occupant.