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STATUTORY INSTRUMENTS

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**1996 No. 1944**

**SOCIAL SECURITY**

**The Income-related Benefits Schemes and Social  
Fund (Miscellaneous Amendments) Regulations 1996**

*Made* - - - - - *23rd July 1996*  
*Laid before Parliament* *29th July 1996*  
*Coming into force in accordance with regulation 1(1)*

The Secretary of State for Social Security, in exercise of powers conferred on him by sections 123(1), 128(3), 129(6), 130(5), 131(3)(b), 135(1), 136(3) to (5), 137(1) and (2)(a), (d), (i) and (1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992<sup>M1</sup>, sections 63, 78(2), 189(1) and (3) to (5) and 191 of the Social Security Administration Act 1992<sup>M2</sup>, sections 36(1) and 40(1) of the Jobseekers Act 1995<sup>M3</sup> and of all other powers enabling him in that behalf, after consultation in respect of regulations 2, 5, 7, 10, 11 and, in so far as they affect council tax benefit and housing benefit, regulation 13 and the Schedule, with organisations appearing to him to be representative of the authorities concerned<sup>M4</sup>, and after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it<sup>M5</sup>, hereby makes the following Regulations:

**Marginal Citations**

- M1** 1992 c.4; sections 123(1)(e) and 131 were substituted by the [Local Government Finance Act 1992 \(c.14\)](#), [sections 103](#), 118 and Schedule 9; [section 124\(1\)\(d\)](#) and (e) were inserted by the [Jobseekers Act 1995 \(c.18\)](#), [Schedule 2 paragraph 30](#); [section 137\(1\)](#) is an interpretation section and is cited because of the meaning assigned to the word “prescribed”.
- M2** 1992 c.5; [section 191](#) is an interpretation provision and is cited because of the meaning assigned to the word “prescribe”.
- M3** 1995 c.18.
- M4** See the [Social Security Administration Act 1992 \(c.5\)](#), [section 176\(1\)](#).
- M5** See [section 173\(1\)\(b\)](#) of the [Social Security Administration Act 1992 \(c.4\)](#); [section 173\(7\)](#) defines “regulations”.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Income-related Benefits Schemes and Social Fund (Miscellaneous Amendments) Regulations 1996 and, subject to paragraphs (2) to (4), shall come into force—

- (a) for the purposes of this regulation and regulations 2 and 5 to 13 and the Schedule, on 7th October 1996;
- (b) for the purposes of regulations 3 and 4 on 8th October 1996.

<sup>F1</sup>(2) .....

<sup>F1</sup>(3) .....

(4) Regulations 6, 8, 12, and, in so far as they affect income support, regulation 13 and the Schedule shall come into force immediately after the Income Support (General) (Jobseeker’s Allowance Consequential Amendments) Regulations 1996 <sup>M6</sup> come into force.

(5) Regulations 3, 4 and, in so far as they affect disability working allowance and family credit, regulation 13 and the Schedule shall have effect in relation to any particular claimant, where a claimant has an award of disability working allowance or family credit which is current on 7th October 1996, on the day following the expiration of that award.

(6) Regulations 6, 8, 12 and, in so far as they affect income support, regulation 13 and the Schedule shall have effect in relation to any particular claimant at the beginning of the first benefit week to commence for that claimant on or after the 7th October 1996 which applies in his case.

(7) In paragraph (6) above and regulation 8(1)(e) (transitional provision for income support) “benefit week” shall have the same meaning as in the Income Support Regulations and in paragraph (6) above “claimant” shall have the same meaning as in those Regulations.

(8) In these Regulations—

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992 <sup>M7</sup>;

“the Disability Working Allowance Regulations” means the Disability Working Allowance (General) Regulations 1991 <sup>M8</sup>;

“earnings top-up” means the allowance paid by the Secretary of State under the Earnings Top-up Scheme;

“the Earnings Top-up Scheme” means the Earnings Top-up Scheme 1996 <sup>M9</sup>;

“the Family Credit Regulations” means the Family Credit (General) Regulations 1987 <sup>M10</sup>;

<sup>F2</sup> .....

<sup>F2</sup> .....

(9) In this regulation, unless the context otherwise requires, a reference to a numbered regulation or Schedule is to the regulation in these Regulations bearing that number or to the Schedule to these Regulations.

**Textual Amendments**

**F1** Words in reg. 1(2)(3) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

**F2** Words in reg. 1(8) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

**Marginal Citations**

- M6** [S.I. 1996/206](#).
- M7** [S.I. 1992/1814](#); relevant amending instruments [S.I. 1993/688](#), 1994/470, 578, 1807, 1995/626 and 1742.
- M8** [S.I. 1991/2887](#); relevant amending instruments [S.I. 1994/2139](#) and 1995/516.
- M9** This Scheme, which applies only in certain areas of Great Britain, is an extra-statutory Scheme introduced by the Secretary of State for Social Security having effect on 8th October 1996. Copies of the Rules of the Scheme may be obtained from the Customer Services Manager, Earnings Top-up, Norcross, Blackpool FY5 3TA and will be available for inspection at the Department of Social Security, 9th Floor Adelphi, 1—11 John Adam Street, London WC2N 6HT and offices of the Benefits Agency and Employment Job Centres which serve the areas specified in Schedule 1 to the Scheme.
- M10** [S.I. 1987/1973](#); relevant amending instrument [S.I. 1995/516](#).

**Amendment of the Council Tax Benefit Regulations**

**F3** 2. ....

**Textual Amendments**

- F3** [Reg. 2](#) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006](#) (S.I. 2006/217), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

**Amendment of the Disability Working Allowance Regulations**

**3.—(1)** The Disability Working Allowance Regulations shall be amended in accordance with the following paragraphs.

(2) In paragraph (7)(b) of regulation 16 (normal weekly earnings of employed earners) for the words “is less than 9 weeks” there shall be substituted the words “is less than the assessment period in paragraphs (2) to (5) appropriate in his case”.

(3) In paragraph (2) of regulation 56 (overlapping awards) <sup>M11</sup> after the word “beginning” there shall be inserted the words “on or”.

**Marginal Citations**

- M11** [Regulation 56](#) was substituted by [S.I. 1994/2139](#).

**Amendment of the Family Credit Regulations**

**4.—(1)** The Family Credit Regulations shall be amended in accordance with the following paragraphs.

(2) In paragraph (2) of regulation 38 (calculation of grant income)—

- (a) sub-paragraph (b) shall be omitted;
- (b) in sub-paragraph (f) the words “(other than special equipment)” shall be omitted.

(3) In paragraph (2) of regulation 51 (overlapping awards) <sup>M12</sup> after the word “beginning” there shall be inserted the words “on or”.

**Marginal Citations**

**M12** Regulation 51 was substituted by S.I. 1994/2139.

**Amendment of the Housing Benefit Regulations**

<sup>F4</sup>5. ....

**Textual Amendments**

**F4** Reg. 5 revoked (6.3.2006) by The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

**Amendment of the Income Support Regulations**

6.—(1) The Income Support Regulations shall be amended in accordance with the following paragraphs.

(2) In regulation 2 (interpretation) after the definition of “housing benefit expenditure” the following definition shall be inserted—

““immigration authorities” in regulation 21(3) (special cases) means an adjudicator, an immigration officer or an immigration appeal tribunal appointed for the purposes of the Immigration Act 1971<sup>M13</sup> and in addition means the Secretary of State;”.

(3) In paragraph (2)(c)(iv) of regulation 4 (temporary absence from Great Britain) after the number “9,” there shall be inserted the number “9A,”.

(4) In regulation 5 (persons treated as engaged in remunerative work) after paragraph (1) the following new paragraph shall be inserted—

“(1A) In the case of any partner of the claimant paragraph (1) shall have effect as though for the words “16 hours” there were substituted the words “24 hours”.”.

(5) For sub-paragraph (b) of paragraph (3) of regulation 16 (circumstances in which a person is to be treated as being or not being a member of the household) there shall be substituted the following new sub-paragraph—

- “(b) one, both or all of them are—
  - (i) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court; or
  - (ii) on temporary release in accordance with the provisions of the Prison Act 1952<sup>M14</sup> or the Prisons (Scotland) Act 1989<sup>M15</sup>;”.

(6) In paragraph (3) of regulation 21 (special cases)—

- (a) in sub-paragraph (a) of the first definition of “person from abroad” the words “the Channel Islands or the Isle of Man,” shall be omitted;
- (b) in the second definition of “person from abroad” for the words from “the Republic of Ireland” to “the Isle of Man” there shall be substituted the words “the Channel Islands, the Isle of Man or the Republic of Ireland”.

(7) In regulation 60D (date on which child support maintenance is to be treated as paid)<sup>M16</sup>—

- (a) at the beginning there shall be inserted the words “(1) Subject to paragraph (2),”;

- (b) in sub-paragraph (a) at the beginning there shall be inserted the words “subject to sub-paragraph (aa),”;
  - (c) after sub-paragraph (a) there shall be inserted the following sub-paragraph—
    - “(aa) in the case of any amount of a payment which represents arrears of maintenance for a week prior to the first benefit week pursuant to a claim, on the day of the week in which it became due which corresponds to the first day of the benefit week;”;
  - (d) in sub-paragraph (b) for the words “it is paid” there shall be substituted the words “it is due to be paid”;
  - (e) after paragraph (1) there shall be added the following paragraph—
    - “(2) Where a payment to which paragraph (1)(b) refers is made to the Secretary of State and then transmitted to the person entitled to receive it, the payment shall be treated as paid on the first day of the benefit week in which it is transmitted or, where it is not practicable to take it into account in that week, the first day of the first succeeding benefit week in which it is practicable to take the payment into account.”.
- (8) In regulation 61 (students interpretation)—
- (a) for the definitions of “contribution”, “course of advanced education” and “standard maintenance grant”, there shall be respectively substituted the following definitions—
    - ““contribution” means any contribution in respect of the income of any other person which the Secretary of State or an education authority takes into account in ascertaining the amount of the student’s grant, or any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Further and Higher Education (Scotland) Act 1992<sup>M17</sup>, the Secretary of State or education authority takes into account being sums which the Secretary of State or the education authority consider that the holder of the allowance or bursary, the holder’s parents and the holder’s spouse can reasonably be expected to contribute towards the holder’s expenses;”;
    - ““course of advanced education” means—
      - (a) a course leading to a postgraduate degree or comparable qualification, a first degree or comparable qualification, a diploma of higher education or a higher national diploma; or
      - (b) any other course which is of a standard above advanced GNVQ or equivalent, including a course which is of a standard above a general certificate of education (advanced level), a Scottish certificate of education (higher level) or a Scottish certificate of sixth year studies;”;
    - ““standard maintenance grant” means—
      - (a) except where paragraph (b) or (c) applies, in the case of a student attending a course of study at the University of London or an establishment within the area comprising the City of London and the Metropolitan Police District, the amount specified for the time being in paragraph 2(2)(a) of Schedule 2 to the Education (Mandatory Awards) Regulations 1995 (“the 1995 Regulations”) for such a student;
      - (b) except where paragraph (c) applies, in the case of a student residing at his parent’s home, the amount specified in paragraph 3(2) thereof;
      - (c) in the case of a student receiving an allowance or bursary under the Further and Higher Education (Scotland) Act 1992, the amount of money specified as “standard maintenance allowance” for the relevant year appropriate for the student set out in the Guide to Under-graduate allowances issued by the Student

Awards Agency for Scotland, or its nearest equivalent in the case of a bursary as set by the local education authority;

(d) in any other case, the amount specified in paragraph 2(2) of Schedule 2 to the 1995 Regulations other than in sub-paragraph (a) or (b) thereof;”;

(b) the following definitions shall be inserted in the appropriate positions—

““college of further education" means a college of further education within the meaning of Part I of the Further and Higher Education (Scotland) Act 1992;”;

““the FEFC" means the Further Education Funding Council for England or the Further Education Funding Council for Wales;”;

““full-time course of advanced education" means a course of advanced education which is taken by a person who is—

(a) attending a full-time course of study which is not funded in whole or in part by the FEFC or a full-time course of study which is not funded in whole or in part by the Secretary of State for Scotland at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Secretary of State for Scotland;

(b) undertaking a course of study which is funded in whole or in part by the FEFC if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out in the case of a course funded by the FEFC for England, in his learning agreement signed on behalf of the establishment which is funded by the FEFC for the delivery of that course or, in the case of a course funded by the FEFC for Wales, in a document signed on behalf of the establishment which is funded by the FEFC for the delivery of that course; or

(c) undertaking a course of study (not being higher education) which is funded in whole or in part by the Secretary of State for Scotland at a college of further education if it involves—

(i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or

(ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 per week, according to the number of hours set out in a document signed on behalf of the college;”;

““full-time course of study" means a full-time course of study which—

(a) is not funded in whole or in part by the FEFC or a full-time course of study which is not funded in whole or in part by the Secretary of State for Scotland at a college of further education or a full-time course of study which is a course of higher education and is funded in whole or in part by the Secretary of State for Scotland;

(b) is funded in whole or in part by the FEFC if it involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out in the case of a course funded by the FEFC for England, in his learning agreement signed on behalf of the establishment which is funded by the FEFC for the delivery of that course

or, in the case of a course funded by the FEFC for Wales, in a document signed on behalf of the establishment which is funded by the FEFC for the delivery of that course; or

- (c) is not higher education and is funded in whole or in part by the Secretary of State for Scotland at a college of further education if it involves—
  - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
  - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 per week, according to the number of hours set out in a document signed on behalf of the college;”;

““higher education” means higher education within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992 <sup>M18</sup>;”;

- (c) in the definition of—
  - (i) “covenant income” the words “net of tax at the basic rate” shall be omitted;
  - (ii) “education authority” for the words “an education authority as defined in section 135(1) of the Education (Scotland) Act 1980 (interpretation)” there shall be substituted the words “a local education authority as defined in section 123 of the Local Government (Scotland) Act 1973 <sup>M19</sup>”;
  - (iii) “grant” for the words “sections 131 and 132 of the Education Reform Act 1988” there shall be substituted the words “section 65 of the Further and Higher Education Act 1992 <sup>M20</sup>” and at the end there shall be added the words “or section 40 of the Higher and Further Education (Scotland) Act 1992 <sup>M21</sup>”;
  - (iv) “periods of experience” for the words “Education (Mandatory Awards) Regulations 1987” there shall be substituted the words “Education (Mandatory Awards) Regulations 1995 <sup>M22</sup>”;
  - (v) “sandwich course” for the words “Education (Mandatory Awards) Regulations 1987” there shall be substituted the words “Education (Mandatory Awards) Regulations 1995”;
  - (vi) “year” for the word “course” there shall be substituted the words “course of study”.

(9) In paragraph (2) of regulation 62 (calculation of grant income)—

- (a) sub-paragraph (b) shall be omitted;
- (b) in sub-paragraph (g) the words “(other than special equipment)” shall be omitted.

(10) In Schedule 3 (housing costs) <sup>M23</sup>—

- (a) in paragraph 4—
  - (i) in head (a) of sub-paragraph (6) after the words “paragraph 15” there shall be inserted the words “during the relevant period”;
  - (ii) for head (b) of sub-paragraph (6) there shall be substituted the following head—
    - “(b) to finance the purchase of a property where an earlier loan, which qualified under paragraph 15 or 16 during the relevant period in respect of another property, is paid off (in whole or in part) with monies received from the sale of that property;”;

- (b) in paragraph 14(1)(a)(ii) the words “he was or was treated as being in receipt thereof or to which (i) above applies” shall be omitted and after the word “which” the third time it appears there shall be inserted—
- “(aa) he was, or was treated as being, in receipt of income support,
- (bb) he was treated as entitled to income support for the purpose of sub-paragraph (5) or (5A) <sup>M24</sup>, or
- (cc) (i) above applies;”.
- (11) In Schedule 8 (sums to be disregarded in the calculation of earnings)—
- (a) for paragraph 6 there shall be substituted the following paragraph—
- “6. Where the claimant is a member of a couple—
- (a) in a case to which none of paragraphs 4, 6A, 6B, 7 and 8 applies <sup>M25</sup>, £10; but notwithstanding regulation 23 (calculation of income and capital of members of claimant’s family and of a polygamous marriage), if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this sub-paragraph are less than £10;
- (b) in a case to which one or more of paragraphs 4, 6A, 6B, 7 and 8 applies and the total amount disregarded under those paragraphs is less than £10, so much of the claimant’s earnings as would not in aggregate with the amount disregarded under those paragraphs exceed £10.”;
- (b) for paragraph 10 there shall be substituted the following paragraph—
- “10. Notwithstanding the foregoing provisions of this Schedule, where two or more payments of the same kind and from the same source are to be taken into account in the same benefit week, because it has not been practicable to treat the payments under regulation 31(1)(b) (date on which income treated as paid) as paid on the first day of the benefit week in which they were due to be paid, there shall be disregarded from each payment the sum that would have been disregarded if the payment had been taken into account on the date on which it was due to be paid.”;
- (c) after paragraph 15 the following new paragraph 15A shall be inserted—
- “15A. In the case of a claimant who—
- (a) has been engaged in employment as a member of any territorial or reserve force prescribed in Part I of Schedule 3 to the Social Security (Contributions) Regulations 1979 <sup>M26</sup>; and
- (b) by reason of that employment has failed to satisfy any of the conditions for entitlement to income support other than section 124(1)(b) of the Contributions and Benefits Act (income support in excess of the applicable amount),
- any earnings from that employment paid in respect of the period in which the claimant was not entitled to income support.”.

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**Marginal Citations**

M13 1971 c.77.



- M14 1952 c.52.
- M15 1989 c.45.
- M16 Regulation 60D was inserted by S.I. 1993/846.
- M17 1992 c.37.
- M18 1992 c.37.
- M19 1973 c.65.
- M20 1992 c.13.
- M21 1992 c.37.
- M22 S.I. 1995/3321.
- M23 Schedule 3 was substituted by S.I. 1995/1613.
- M24 Sub-paragraph (5A) was inserted by S.I. 1995/2927, **regulation 5(10)(c)**.
- M25 Paragraphs 6A and 6B were inserted in Schedule 8 by S.I. 1993/315.
- M26 S.I. 1979/591; relevant amending instruments are S.I. 1980/1975 and 1994/1553.

### Transitional provision for council tax benefit and housing benefit

<sup>F5</sup>7. ....

#### Textual Amendments

- F5 Reg. 7 revoked (6.3.2006) by **The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006** (S.I. 2006/217), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

### Transitional provision for income support

<sup>F6</sup>8. ....

#### Textual Amendments

- F6 Reg. 8 revoked (1.10.2007) by **The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2007** (S.I. 2007/2618), reg. 1(1), **Sch.**

### Amendment of the Social Fund (Recovery by Deduction from Benefits) Regulations 1988

9. Regulation 3 of the Social Fund (Recovery by Deduction from Benefits) Regulations 1988<sup>M27</sup> (benefits from which an award may be recovered) shall be amended in accordance with the following paragraphs—

- (a) in paragraph (a) at the end there shall be added the words “, other than a back to work bonus payable by way of income support or jobseeker’s allowance in pursuance of section 26 of the Jobseekers Act 1995<sup>M28</sup>,”;
- (b) for paragraph (c) there shall be substituted the following paragraph—
  - “(c) a jobseeker’s allowance other than a back to work bonus payable by way of income support or jobseeker’s allowance in pursuance of section 26 of the Jobseekers Act 1995;”;
- (c) in paragraphs (o) and (p) the words “unemployment benefit” shall be omitted.

#### Marginal Citations

- M27 S.I. 1988/35; relevant amending instruments S.I. 1991/2742 and 1995/829.

**M28** 1995 c.18.

**Amendment of the Housing Benefit (General) Amendment Regulations 1995**

<sup>F7</sup>**10.** .....

**Textual Amendments**  
**F7** Reg. 11 revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

**Amendment of the Housing Benefit (General) Amendment Regulations 1996**

<sup>F7</sup>**11.** .....

**Textual Amendments**  
**F7** Reg. 11 revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

**Amendment of the Income Support (General) (Jobseeker’s Allowance Consequential Amendments) Regulations 1996**

**12.** In regulation 32 of the Income Support (General) (Jobseeker’s Allowance Consequential Amendments) Regulations 1996 (continuity with jobseeker’s allowance) <sup>M29</sup> for the words from “income support” the first time they appear to the end of the regulation there shall be substituted the words—

“or is to be treated as being in receipt of income support or whether any amount is applicable or payable—

- (a) entitlement to an income-based jobseeker’s allowance shall be treated as entitlement to income support for the purposes of any requirement that a person is or has been entitled to income support for any period of time; and
- (b) a person who is treated as being in receipt of income-based jobseeker’s allowance shall be treated as being in receipt of income support for the purposes of any requirement that he is or has been treated as being in receipt of income support for any period of time.”.

**Marginal Citations**  
**M29** [S.I. 1996/206](#).

**Amendments consequential on the introduction of the Earnings Top-up Scheme**

**13.** Amendments to <sup>F8</sup>..., the Disability Working Allowance Regulations, the Family Credit Regulations, <sup>F8</sup>... and the Income Support Regulations which are consequential upon the introduction of the Earnings Top-up Scheme are specified in the Schedule to these Regulations.

**Textual Amendments**

- F8** Words in [reg. 13](#) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

Signed by authority of the Secretary of State for Social Security.

*Roger Evans*  
Parliamentary Under-Secretary of State,  
Department of Social Security

SCHEDULE

Regulation 13

Amendments consequential on the introduction of the Earnings Top-up Scheme.

**Definitions**

1.—(1) Regulation 2(1) of the Regulations specified in sub-paragraph (2) (interpretation) shall each be amended by inserting the following definitions in the appropriate positions—

““earnings top-up" means the allowance paid by the Secretary of State under the Earnings Top-up Scheme;”;

““the Earnings Top-up Scheme" means the Earnings Top-up Scheme 1996<sup>M30</sup>.”.

(2) The Regulations are—

- (a)<sup>F9</sup> .....
- (b) the Disability Working Allowance Regulations;
- (c) the Family Credit Regulations;
- (d)<sup>F10</sup> .....
- (e) the Income Support Regulations.

**Textual Amendments**

- F9** Sch. para. 1(2)(a) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)
- F10** Sch. para. 1(2)(d) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

**Marginal Citations**

**M30** This Scheme, which applies only in certain areas of Great Britain, is an extra-statutory Scheme introduced by the Secretary of State for Social Security having effect on 8th October 1996. Copies of the Rules of the Scheme may be obtained from the Customer Services Manager, Earnings Top-up, Norcross, Blackpool FY5 3TA and will be available for inspection at the Department of Social Security, 9th Floor Adelphi, 1—11 John Adam Street, London WC2N 6HT and offices of the Benefits Agency and Employment Job Centres which serve the areas specified in Schedule 1 to the Scheme.

**Benefit under the benefit Acts**

- 2.—<sup>F11</sup>(1) .....
- <sup>F11</sup>(2) .....

(3) In regulation 2 of the Income Support Regulations (interpretation) the following paragraph shall be added—

“(4) For the purposes of these Regulations references to “benefit under the benefit Acts” shall be construed as including a reference to earnings top-up.”.

**Textual Amendments**

- F11** Sch. para. 2(1)(2) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

### Notional income

3. In regulation 42(2) of the Income Support Regulations (notional income) after sub-paragraph (g)<sup>M31</sup> the following sub-paragraph shall be added—

“(h) earnings top-up,”.

#### Marginal Citations

**M31** Sub-paragraph (g) was inserted in regulation 42(2) by [S.I. 1995/2303](#).

### Diminishing notional capital

<sup>F12</sup>4. ....

#### Textual Amendments

**F12** Sch. para. 4 revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

### Disregard of income other than earnings

5.—(1) In each of the Schedules to the Regulations specified in sub-paragraph (2) (sums to be disregarded in the calculation of income other than earnings), the following new paragraph shall be added bearing the specified number—

“Any payment made by the Secretary of State under the Earnings Top-up Scheme.”.

(2) The Schedules are—

- (a) Schedule 3 paragraph 54 to the Disability Working Allowance Regulations;
- (b) Schedule 2 paragraph 56 to the Family Credit Regulations.

### Further disregards of income other than earnings

<sup>F13</sup>6. ....

#### Textual Amendments

**F13** Sch. para. 6 revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

### Disregard of capital

7.—(1) In each paragraph which is specified in the Schedules referred to in paragraph (2) (capital to be disregarded), the following sub-paragraph shall be inserted bearing the specified letter—

“any earnings top-up,”.

(2) The Schedules are—

- <sup>F14</sup>(a) .....
- (b) Schedule 4 paragraph 8(c) to the Disability Working Allowance Regulations;
- (c) Schedule 3 paragraph 8(c) to the Family Credit Regulations;

*Changes to legislation: There are currently no known outstanding effects for the The Income-related Benefits Schemes and Social Fund (Miscellaneous Amendments) Regulations 1996. (See end of Document for details)*

<sup>F15</sup>(d) .....

(e) Schedule 10 paragraph 7(c) to the Income Support Regulations.

**Textual Amendments**

**F14** Sch. para. 7(2)(a) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

**F15** Sch. para. 7(2)(d) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 1** (with regs. 2, 3, Schs. 3, Sch. 4)

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**EXPLANATORY NOTE**

(This note is not part of the Regulations)

These Regulations amend the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814) (the Council Tax Benefit Regulations), the Disability Working Allowance (General) Regulations 1991 (S.I. 1991/2887) (the Disability Working Allowance Regulations), the Family Credit (General) Regulations 1987 (S.I. 1987/1973) (the Family Credit Regulations), the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) (the Housing Benefit Regulations), the Income Support (General) Regulations 1987 (S.I. 1987/1967) (the Income Support Regulations) and the Social Fund (Recovery by Deductions from Benefits) Regulations 1988 (S.I. 1988/35).

In the Council Tax Benefit Regulations the provision governing students from abroad who are excluded from council tax benefit is amended to take account of changes with respect to persons from abroad (regulation 2(6)).

In the Council Tax Benefit Regulations and the Housing Benefit Regulations the manner in which a student’s covenant income is calculated is amended and a minor amendment is made to the diminishing notional capital rule (regulations 2(4), (8) and (9) and 5(4), (7) and (8)).

The Council Tax Benefit Regulations, the Housing Benefit Regulations and the Income Support Regulations are amended with respect to—

- a)** the definitions relating to the treatment of students (regulations 2(5), 5(5) and 6(8));
- b)** the manner of calculating a student’s grant income (regulations 2(7), 5(6) and 6(9));
- c)** the provisions specifying who is to be treated as a person from abroad (regulation 2(2) and (3), 5(2)(a) and (3), 6(2) and (6)).

In the Disability Working Allowance Regulations provision is made with respect to the period over which a person’s weekly income is to be determined and the Family Credit Regulations are amended with respect the calculation of a student’s grant income. Those Regulations are also amended with respect the treatment of overlapping awards of those benefits (regulations 3 and 4).

In the Housing Benefit Regulations the definitions of “person affected” and “young individual” are amended (regulation 5(2)).

The Income Support Regulations are amended—

- a)** with respect to payment of benefit to persons temporarily absent from Great Britain and the entitlement of persons from abroad (regulations 6(2), (3) and (6));
- b)** with respect to the treatment of a partner of a claimant for income support as engaged in remunerative work where he is engaged in such work for at least 24 hours per week (regulation 6(4));

c) so that a person detained in custody or on temporary release is not to be treated as a member of the household of a claimant for income support (regulation 6(5));

d) with respect to the day on which arrears of child support maintenance are to be treated as paid (regulation 6(7));

e) with respect to the treatment of prescribed housing costs (regulation 6(10));

f) with respect to sums which are to be disregarded in the calculation of a person's income other than earnings (regulation 6(11)).

Where a person attending a specified course of study on 31st July 1996 is in receipt of council tax benefit, housing benefit or income support and remains entitled to the benefit concerned on 7th October 1996, while he satisfies the other conditions of entitlement to that benefit he will remain entitled to that benefit until he leaves the course or the course ends (regulations 7 and 8).

The Social Fund (Recovery by Deductions from Benefits) Regulations 1988 (S.I. 1988/35) are amended in consequence of the introduction of jobseeker's allowance (regulation 9).

The Housing Benefit (General) Amendment Regulations 1995 (S.I. 1995/1644) are amended so that the definition of "exempt accommodation" in the savings provision to those Regulations is extended to apply to accommodation which is provided by a non-metropolitan county council for care and support (regulation 10).

A minor correction is made to the interpretation provision in the Housing Benefit (General) Amendment Regulations 1996 (S.I. 1996/965) (regulation 11).

The Income Support (Jobseeker's Allowance Consequential Amendments) Regulations 1996 (S.I. 1996/206) are amended with respect to the continuity between income support and jobseeker's allowance (regulation 12).

Regulation 13 and the Schedule provide for the treatment of the extra-statutory allowance named earnings top-up for the purposes of income-related benefits.

Copies of the Earnings Top-up Scheme may be obtained by application to the Customer Services Manager, Earnings Top-up, Norcross, Blackpool FY5 3TA.

These Regulations do not impose a charge upon businesses.

**Changes to legislation:**

There are currently no known outstanding effects for the The Income-related Benefits Schemes and Social Fund (Miscellaneous Amendments) Regulations 1996.