
STATUTORY INSTRUMENTS

1996 No. 462

SOCIAL SECURITY

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

Made - - - - 28th February 1996
Laid before Parliament 4th March 1996
Coming into force in
accordance with regulation 1

The Secretary of State for Social Security, in exercise of the powers conferred by sections 123(1), 130(2), 134(1), 135(1) and (6), 136(2), (3) and (5)(a) and (b), 137(1) and (2)(h) and (i) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992^{M1}, sections 5(1)(b) and 6(1)(b) of the Social Security Administration Act 1992^{M2} and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it^{M3}, and after consultation, in respect of provisions in these Regulations relating to housing benefit and council tax benefit, with organisations appearing to the Secretary of State to be representative of the authorities concerned^{M4}, hereby makes the following Regulations:

Marginal Citations

- M1** 1992 c.4; sections 123, 130, 135, 136 and 137 of the Contributions and Benefits Act 1992 were amended to have effect with respect to council tax benefit by Schedule 9 to the [Local Government Finance Act 1992 \(c.14\)](#); section 137(1) is an interpretation provision and is cited because of the meaning assigned to the word “prescribed”.
- M2** 1992 c.5; section 6(1)(b) was amended by the [Local Government Finance Act 1992 \(c.14\)](#), [Schedule 9](#), paragraph 12.
- M3** See the [Social Security Administration Act 1992 \(c.5\)](#), [section 173\(1\)\(b\)](#) and (7).
- M4** See the Social Security Administration Act 1992, section 176(1).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1996 and this regulation shall come into force on 1st April 1996.

(2) In so far as these Regulations amend provisions relating to income support they shall come into force on 8th April 1996 and, in relation to any particular claimant for that benefit, shall have effect from the beginning of the first benefit week to commence for that claimant on or after that date.

(3) In paragraph (2) above, the expressions "claimant" and "benefit week" have the same meaning as in the Income Support Regulations.

^{F1}(4)

(5) In so far as these Regulations amend provisions relating to family credit or disability working allowance, they shall come into force on 9th April 1996 and, in relation to any particular claimant for either of those benefits, they shall have effect —

- (a) where a claimant has an award of family credit or disability working allowance which is current on 9th April 1996, on the day following the expiration of that award; or
- (b) in any other case, on 9th April 1996.

(6) In these Regulations—

"the Disability Working Allowance Regulations" means the Disability Working Allowance (General) Regulations 1991; ^{M5}

"the Family Credit Regulations" means the Family Credit (General) Regulations 1987; ^{M6}

^{F2} ...

^{F2} ...

"the Income Support Regulations" means the Income Support (General) Regulations 1987. ^{M7}

<p>F1 Words in reg. 1(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, Sch. 3, Sch. 4)</p> <p>F2 Words in reg. 1(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, Sch. 3, Sch. 4)</p> <hr/> <p>Marginal Citations</p> <p>M5 S.I. 1991/2887.</p> <p>M6 S. I. 1987/1973.</p> <p>M7 S.I. 1987/1967.</p>
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Income support: Preserved rights

2. In regulation 19 of the Income Support Regulations (applicable amounts for persons in residential care and nursing homes) after paragraph (1ZQ) ^{M8} there is inserted —

"(1ZR) A person who acquired a preserved right under paragraph (1ZB) or (1ZC) ^{M9} shall cease to have that right if —

- (a) he resides in a home which falls within sub-paragraph (c) of the definition of "residential care home" in paragraph (3) (homes run by the Abbeyfield Society) and which is not registered or deemed to be registered under any of the enactments referred to in sub-paragraph (a) or (e) of that definition;
- (b) he requires personal care, including assistance with bodily functions, and that residential care home does not provide such care; and
- (c) he, or a person on his behalf, contracts with another person or body to provide that care,

but that preserved right shall revive if any of the conditions specified in sub-paragraphs (a) to (c) above ceases to apply and that person would, but for this provision, have retained that right.”.

Marginal Citations

M8 Paragraph (1ZQ) was inserted by S.I. 1994/2139, **regulation 24(5)**.

M9 Paragraphs (1ZB) and (1ZC) were inserted by S.I. 1992/3147, **regulation 3(1)(b)**.

Housing benefit and council tax benefit: Severe disability premium

F3. [^{F3}.....]

F3 Reg. 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, Sch. 3, Sch. 4)

Housing benefit and council tax benefit: Disregard of family credit and disability working allowance

F34.

F3 Reg. 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, Sch. 3, Sch. 4)

Housing benefit and council tax benefit: Backdated claims

F45.

F4 Reg. 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, Sch. 3, Sch. 4)

Housing benefit: Exempt accommodation

F46.

F4 Reg. 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, Sch. 3, Sch. 4)

Family credit: Normal weekly income of employed earners

7. In regulation 14(2) of the Family Credit Regulations (normal weekly earnings of employed earners) for sub-paragraph (aa)^{M10} there is substituted—

“(aa) a fortnight—

(i) except where head (ii) applies, a period of three consecutive fortnights immediately preceding the week of claim; or

(ii) where the adjudication officer has insufficient information for the claimant’s normal weekly earnings to be determined in accordance with head (i), a period

of three consecutive fortnights ending with the fortnight before the week immediately preceding the week of claim;”.

Marginal Citations

M10 Regulation 14 was substituted by S.I. 1992/573, **regulation 4** and paragraph (2)(a) was inserted by S.I. 1994/2139, **regulation 12**.

Income-related benefits: Disregard of charitable or voluntary payments

8. In the following provisions (which provide for certain charitable or voluntary payments to be disregarded in the calculation of income other than earnings, the amount of such payments to be disregarded and special arrangements where the claimant has other income, apart from such payments, to be disregarded) for “£10” there is substituted “£20”—

- (a) regulation 65 ^{M11} of, and paragraphs 15(1) ^{M12} and 36 ^{M13} of Schedule 9 to, the Income Support Regulations;
- ^{F5}(b)
- ^{F5}(c)
- (d) regulation 45 of, and paragraphs 12(1) and 29 of Schedule 3 to, the Disability Working Allowance Regulations;
- (e) regulation 41 ^{M14} of, and paragraphs 13(1) ^{M15} and 29 ^{M16} of Schedule 2 to, the Family Credit Regulations.

F5 Reg. 8(b)(c) 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, Sch. 3, Sch. 4)

Marginal Citations

- M11** Regulation 65 was amended by S.I. 1990/547, **regulation 14**.
- M12** Paragraph 15(1) was inserted by S.I. 1993/2119, **regulation 23**.
- M13** Paragraph 36 was amended by S.I. 1990/547, **regulation 22** and S.I. 1990/1657, **regulation 5**.
- M14** Regulation 41 was amended by S.I. 1990/574, **regulations 13** and 41.
- M15** Paragraph 13(1) was substituted by S.I. 1990/574, **regulation 14**.
- M16** Paragraph 29 was amended by S.I. 1990/574, **regulation 14** and S.I. 1990/1657, **regulation 3**.

Income-related benefits: Treatment of student loans

9.—(1) In each of the regulations specified in paragraph (2) below (which provide for student loans to be treated as income) for paragraph (3) there is substituted—

“(3) For the purposes of this regulation a student shall be treated as possessing the maximum amount of any loan referred to in paragraph (1) which he will be able to acquire in respect of an academic year by taking reasonable steps to do so.”.

- (2) The provisions referred to in paragraph (1) above are—
 - (a) regulation 66A ^{M17} of the Income Support Regulations;
 - ^{F6}(b)
 - ^{F6}(c)
 - (d) regulation 42A ^{M18} of the Family Credit Regulations;

(e) regulation 47 of the Disability Working Allowance Regulations.

F6 Reg. 9(2)(b)(c) 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, Sch. 3, Sch. 4)

Marginal Citations

M17 Regulation 66A was inserted by [S.I. 1990/1549](#), **regulation 5(7)**.

M18 Regulation 42A was inserted by [S.I. 1990/1549](#), **regulation 3(5)**.

Income-related benefits: Disregard of contribution to a student grant

10.—(1) In each of the provisions specified in paragraph (2) below, (disregard of contribution) for the words from “the income”, where they first appear, to the end there is substituted—

“, for the purposes of assessing a contribution to the student’s grant, the other partner’s income has been taken into account, an amount equal to that contribution shall be disregarded for the purposes of assessing that other partner’s income.”.

(2) The provisions referred to in paragraph (1) above are—

(a) regulation 67 of the Income Support Regulations;

^{F7}(b)

^{F7}(c)

(d) regulation 43 of the Family Credit Regulations;

(e) regulation 48 of the Disability Working Allowance Regulations.

F7 Reg. 10(2)(b)(c) 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, Sch. 3, Sch. 4)

Income-related benefits: Disregard of payments to holders of the Victoria or George Cross

11.—(1) In Schedule 10 to the Income Support Regulations (capital to be disregarded) after paragraph 45 there is added the following paragraph—

“**46.** Any payment to the claimant as holder of the Victoria Cross or George Cross.”.

^{F8}(2)

(3) In Schedule 3 to the Family Credit Regulations (capital to be disregarded) after paragraph 48 there is added the following paragraph—

“**49.** Any payment to the claimant as holder of the Victoria Cross or George Cross.”.

F8 Reg. 11(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, Sch. 3, Sch. 4)

Income support and housing benefit: Capital limits for persons in residential and other types of accommodation

12.—(1) In the Income Support Regulations—

- (a) for regulation 45^{M19} (capital limit for entitlement to income support) there is substituted—

“45. For the purposes of section 134(1) of the Contributions and Benefits Act as it applies to income support (no entitlement to benefit if capital exceeds prescribed amount)

- (a) except where paragraph (b) applies, the prescribed amount is £8,000;
- (b) where the circumstances prescribed in regulation 53(1B) apply in the claimant’s case, the prescribed amount is £16,000.”;

- (b) in regulation 53 (calculation of tariff income from capital) —

(i) in paragraph (1)^{M20}, at the beginning, there is inserted “Except where the circumstances prescribed in paragraph (1B) apply to the claimant,”;

(ii) after paragraph (1), there is inserted—

“(1A) Where the circumstances prescribed in paragraph (1B) apply to the claimant and that claimant’s capital calculated in accordance with this Part exceeds £10,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £10,000 but not exceeding £16,000.

(1B) For the purposes of paragraph (1A) and regulation 45, the prescribed circumstances are that the claimant lives permanently in—

- (a) a residential care or nursing home, or residential accommodation and that home or accommodation provides board and personal care for the claimant by reason of his old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder; or
- (b) an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society; or
- (b) accommodation provided under section 3 of, and Part II of the Schedule to, the Polish Resettlement Act 1947^{M21} (provision of accommodation in camps) where the claimant requires personal care and is provided with it in the accommodation; and in this sub-paragraph, “personal care” means care which includes assistance with bodily functions where such assistance is required.

(1C) For the purposes of paragraph (1B), a claimant shall be treated as living permanently in such home or accommodation where he is absent—

- (a) from a home or accommodation referred to in sub-paragraph (a) or (b) of paragraph (1B)—
 - (i) in the case of a claimant referred to in regulation 19(2) or in the case of a person over pensionable age, for a period not exceeding 52 weeks, and
 - (ii) in any other case, for a period not exceeding 13 weeks;
- (b) from accommodation referred to in sub-paragraph (c) of paragraph (1B), where the claimant, with the agreement of the manager of the accommodation, intends to return to the accommodation in due course.”;

(iii) in both paragraphs (2) and (3)^{M22}, for “paragraph (1)”, there is substituted “paragraphs (1) and (1A)”;

(iv) after paragraph (3) there is added—

“(4) For the purposes of this regulation, the definition of “residential accommodation” in regulation 21(3) ^{M23} (applicable amounts of income support in special cases) shall have effect as if, after the words “subject to the following provisions of this regulation”, there were inserted “(except paragraphs (4) and (4A))”.”

^{F9}(2)

F9 Reg. 12(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, Sch. 3, Sch. 4)

Marginal Citations

M19 The capital limit in regulation 45 was substituted by [S.I. 1990/671](#).

M20 The upper capital limit in regulation 53(1) was substituted by [S.I. 1990/671](#), **regulation 5(2)**.

M21 [1947 c.19](#).

M22 Regulation 53(3) was amended by [S.I. 1988/2022](#), **regulation 13**.

M23 The definition of "residential accommodation" in regulation 21(3) was amended by [S.I. 1992/3147](#), **paragraph 3(a)** of Schedule 1, 1994/2139, regulation 25(a) and 1995/516, regulation 21(a)(ii).

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

Department of Social Security

Roger Evans
Parliamentary Under-Secretary of State,

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971), the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814), the Family Credit (General) Regulations 1987 (S.I. 1987/1973) and the Disability Working Allowance (General) Regulations 1991 (S.I. 1991/2887) in the following respects.

With regard to income support, provision is made for the preserved rights of a person in a residential care home run by the Abbeyfield Society to cease if arrangements are made to provide him with personal care (regulation 2).

With regard to housing benefit and council tax benefit, provision is made—
for the severe disability premium payable to a couple to continue if one partner is in hospital (regulation 3);

for the additional family credit and disability working allowance payable to persons who work for 30 hours or more per week to be disregarded in the calculation of income (regulation 4);

for clarifying regulations relating to backdated claims (regulation 5).

With regard to family credit, provision is made for the calculation of normal weekly income where a person is paid fortnightly (regulation 7).

With regard to all income-related benefits, provision is made —

for increasing to £20 the disregard of certain charitable or voluntary payments in the calculation of income and for increasing the maximum amount to be disregarded from a claimant's income in respect of such payments (regulation 8);

for treating as income a student loan which a person will be able to acquire if he takes reasonable steps to do so (regulation 9);

for clarifying regulations relating to the disregard of a partner's contribution to a student grant in the calculation of the partner's income (regulation 10);

for any payment to a claimant as holder of the Victoria Cross or George Cross to be disregarded in the calculation of capital (regulation 11).

Regulation 6 amends the definition of "exempt accommodation" in regulation 10 (saving) of the Housing Benefit (General) Amendment Regulations 1995.

Regulation 12 amends the capital limits in respect of claimants for income support and housing benefit who are in residential care, nursing homes or other types of residential accommodation.

In relation to income support and housing benefit, the amount to be disregarded in the assessment of tariff income from capital is increased from £3,000 to £10,000 (paragraphs (1)(b) and (2)(b)).

The upper capital limit for claimants for income support is increased from £8,000 to £16,000 (paragraph (1)(a)).

Provision is also made for cases of temporary absence from residential accommodation and some consequential amendments are made to the relevant regulations.

These Regulations do not impose any costs on business.

Changes to legislation:

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