
STATUTORY INSTRUMENTS

1998 No. 2117

SOCIAL SECURITY

**The Social Security Amendment
(New Deal) (No.2) Regulations 1998**

<i>Made</i>	- - - -	<i>27th August 1998</i>
<i>Laid before Parliament</i>		<i>3rd September 1998</i>
<i>Coming into force</i>	- -	<i>24th September 1998</i>

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 12(4)(a) and (b), 35(1) and 36(1), (2) and (4) of the Jobseekers Act 1995⁽¹⁾ and sections 123(1) (a) to (c), 136(5)(a) and (b), 137(1) and 175(1) and (4) of the Social Security Contributions and Benefits Act 1992⁽²⁾ 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⁽³⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security Amendment (New Deal) (No.2) Regulations 1998 and shall come into force on 24th September 1998.

(2) In these Regulations—

“the Disability Working Allowance Regulations” means the Disability Working Allowance (General) Regulations 1991⁽⁴⁾;

“the Family Credit Regulations” means the Family Credit (General) Regulations 1987⁽⁵⁾;

“the Income Support Regulations” means the Income Support (General) Regulations 1987⁽⁶⁾;

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996⁽⁷⁾.

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- (1) [1995 c. 18](#); section 35(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.
- (2) [1992 c. 4](#); section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.
- (3) See sections 170 and 173(1)(b) of the Social Security Administration Act [1992 \(c. 5\)](#), paragraph 67 of Schedule 2 to the Jobseekers Act 1995 added that Act to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee.
- (4) S.I. [1991/2887](#).
- (5) S.I. [1987/1973](#).
- (6) S.I. [1987/1967](#).
- (7) S.I. [1996/207](#).

(3) In these Regulations, unless the context otherwise requires, a reference in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number.

Notional income

2.—(1) In regulation 105 of the Jobseeker's Allowance Regulations (notional income)—

- (a) in paragraph (10)(8), for the words from the beginning to “regulation 75(1)(b)(ii)” there shall be substituted the words “Any payment of income, other than a payment of income specified in paragraph (10A)”;
- (b) after paragraph (10) there shall be inserted the following paragraph—
 - “(10A) Paragraph (10) shall not apply in respect of a payment of income made—
 - (a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust or the Independent Living Funds;
 - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994(9) (concessionary coal); or
 - (c) pursuant to section 2 of the Employment and Training Act 1973(10) in respect of a person's participation—
 - (i) in an employment programme specified in regulation 75(1)(a)(ii);
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii); or
 - (iii) in a qualifying course within the meaning specified in regulation 17A(7)(11).”.

(2) In regulation 42 of the Income Support Regulations(12) (notional income)—

- (a) in paragraph (4), for the words from the beginning to “regulation 75(1)(b)(ii) of those Regulations” there shall be substituted the words “Any payment of income, other than a payment of income specified in paragraph (4ZA)”;
- (b) after paragraph (4) there shall be inserted the following paragraph—
 - “(4ZA) Paragraph (4) shall not apply in respect of a payment of income made—
 - (a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust or the Independent Living Funds;
 - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal); or
 - (c) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person's participation—
 - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker's Allowance Regulations 1996;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations; or
 - (iii) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations.”.

(8) Regulation 105(10) was amended by S.I. 1997/2197 and 2863.

(9) 1994 c. 21.

(10) 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988 (c. 19) and then amended by Schedule 7 to the Employment Act 1989 (c. 38).

(11) Regulation 17A was inserted by S.I. 1998/1274.

(12) The relevant amending instruments are S.I. 1995/516, 1997/2197 and 2863.

(3) In both regulation 29 of the Disability Working Allowance Regulations and regulation 26 of the Family Credit Regulations⁽¹³⁾ (which relate to notional income)—

(a) in paragraph (3), for the words from the beginning to “regulation 75(1)(b)(ii) of those Regulations” there shall be substituted the words “Any payment of income, other than a payment of income specified in paragraph (3A)”;

(b) after paragraph (3) there shall be inserted the following paragraph—

“(3A) Paragraph (3) shall not apply in respect of a payment of income made—

(a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust or the Independent Living Funds;

(b) pursuant to section 19(1)(a) of the Coal Industry Act 1994 (concessionary coal); or

(c) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person’s participation—

(i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996;

(ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations; or

(iii) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations.”.

Notional capital

3.—(1) In regulation 113 of the Jobseeker’s Allowance Regulations (notional capital)—

(a) in paragraph (3)⁽¹⁴⁾, for the words from the beginning to “regulation 75(1)(b)(ii)” there shall be substituted the words “Any payment of capital, other than a payment of capital specified in paragraph (3A)”;

(b) after paragraph (3) there shall be inserted the following paragraph—

“(3A) Paragraph (3) shall not apply in respect of a payment of capital made—

(a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust or the Independent Living Funds; or

(b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person’s participation—

(i) in an employment programme specified in regulation 75(1)(a)(ii);

(ii) in a training scheme specified in regulation 75(1)(b)(ii); or

(iii) in a qualifying course within the meaning specified in regulation 17A(7).”.

(2) In each of the regulations referred to in paragraph (3)⁽¹⁵⁾ (each of which relates to notional capital)—

(a) in paragraph (3), for the words from the beginning to “regulation 75(1)(b)(ii) of those Regulations” there shall be substituted the words “Any payment of capital, other than a payment of capital specified in paragraph (3A)”;

(b) after paragraph (3) there shall be inserted the following paragraph—

⁽¹³⁾ The relevant amending instruments are S.I. 1997/2197 and 2863.

⁽¹⁴⁾ Paragraph (3) was amended by S.I. 1997/2863.

⁽¹⁵⁾ The relevant amending instruments are S.I. 1993/963 and 1997/2863.

- “(3A) Paragraph (3) shall not apply in respect of a payment of capital made—
- (a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust or the Independent Living Funds;
 - (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person’s participation—
 - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996;
 - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations; or
 - (iii) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations.”.
- (3) The regulations to which paragraph (2) refers are—
- (a) regulation 37 of the Disability Working Allowance Regulations;
 - (b) regulation 34 of the Family Credit Regulations;
 - (c) regulation 51 of the Income Support Regulations.

Income to be disregarded

4.—(1) For paragraph 63 of Schedule 7 to the Jobseeker’s Allowance Regulations(**16**) (sums to be disregarded in the calculation of income other than earnings) there shall be substituted the following paragraph—

“**63.—**(1) Subject to sub-paragraph (2), any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7).

(2) No amount shall be disregarded pursuant to sub-paragraph (1) in respect of travel expenses incurred as a result of the student’s attendance on the course where an amount in respect of those expenses has already been disregarded pursuant to regulation 135(1) (student’s income to be disregarded).”.

(2) After paragraph 59 of Schedule 3 to the Disability Working Allowance Regulations(**17**) (sums to be disregarded in the calculation of income other than earnings) there shall be added the following paragraph—

“**60.—**(1) Subject to sub-paragraph (2), any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7) of the Jobseeker’s Allowance Regulations 1996.

(2) No amount shall be disregarded pursuant to sub-paragraph (1) in respect of travel expenses incurred as a result of the student’s attendance on the course where an amount in respect of those expenses has already been disregarded pursuant to regulation 46 (student’s income to be disregarded).”.

(16) Paragraph 63 was added by S.I. 1998/563.

(17) Paragraph 59 was added by S.I. 1998/1174.

(3) After paragraph 61 of Schedule 2 to the Family Credit Regulations⁽¹⁸⁾ (sums to be disregarded in the calculation of income other than earnings) there shall be added the following paragraph—

“**62.**—(1) Subject to sub-paragraph (2), any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7) of the Jobseeker’s Allowance Regulations 1996.

(2) No amount shall be disregarded pursuant to sub-paragraph (1) in respect of travel expenses incurred as a result of the student’s attendance on the course where an amount in respect of those expenses has already been disregarded pursuant to regulation 42 (student’s income to be disregarded).”.

(4) After paragraph 64 of Schedule 9 to the Income Support Regulations⁽¹⁹⁾ (sums to be disregarded in the calculation of income other than earnings) there shall be added the following paragraph—

“**65.**—(1) Subject to sub-paragraph (2), any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7) of the Jobseeker’s Allowance Regulations 1996.

(2) No amount shall be disregarded pursuant to sub-paragraph (1) in respect of travel expenses incurred as a result of the student’s attendance on the course where an amount in respect of those expenses has already been disregarded pursuant to regulation 66(1) (student’s income to be disregarded).”.

Capital to be disregarded

5.—(1) At the end of Schedule 8 to the Jobseeker’s Allowance Regulations⁽²⁰⁾ (capital to be disregarded), there shall be added the following paragraph—

“**48.** Any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7) but only for the period of 52 weeks from the date of receipt of that payment.”.

(2) At the end of each of the Schedules specified in paragraph (3)⁽²¹⁾ (which relate to capital to be disregarded), there shall be added the following paragraph bearing the respective specified paragraph number—

“Any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7) of the Jobseeker’s Allowance Regulations 1996 but only for the period of 52 weeks from the date of receipt of that payment.”.

(3) The respective paragraph number and Schedules for the purposes of paragraph (2) are—

- (a) paragraph 54 of Schedule 4 to the Disability Working Allowance Regulations;
- (b) paragraph 55 of Schedule 3 to the Family Credit Regulations;
- (c) paragraph 53 of Schedule 10 to the Income Support Regulations.

⁽¹⁸⁾ Paragraph 61 was added by S.I.1998/1174.

⁽¹⁹⁾ The second paragraph 64 was added by S.I. 1998/1174.

⁽²⁰⁾ Paragraph 47 was added by S.I. 1998/1174.

⁽²¹⁾ The relevant amending instruments are S.I. 1997/2863 and 1998/1174.

Technical amendments

6.—(1) At the end of Schedule 7 to the Jobseeker’s Allowance Regulations (sums to be disregarded in the calculation of income other than earnings) there shall be added the following paragraph—

“**64.** Any payment which falls to be treated as notional income made under paragraph (11) of regulation 105 above (payments made in respect of a person in a residential care or nursing home).”.

(2) In Schedule 9 to the Income Support Regulations(**22**) (sums to be disregarded in the calculation of income other than earnings)—

- (a) the first paragraph designated “**64**”(**23**) shall be omitted;
- (b) at the end there shall be added the following paragraph—

“**66.** Any payment made with respect to a person on account of the provision of after-care under section 117 of the Mental Health Act 1983(**24**) or section 8 of the Mental Health (Scotland) Act 1984(**25**) or the provision of accommodation or welfare services to which Parts III and IV of the National Health Service and Community Care Act 1990(**26**) refer, which falls to be treated as notional income under paragraph (4A) of regulation 42 above (payments made in respect of a person in a residential care or nursing home).”.

27th August 1998

Alistair Darling
Secretary of State for Social Security

(22) The relevant amending instruments are S.I. [1998/563](#) and [1174](#).

(23) Paragraph 64 was inserted by S.I. [1998/563](#).

(24) [1983 c. 20](#).

(25) [1984 c. 30](#).

(26) [1990 c. 19](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend certain provisions in the Jobseeker's Allowance Regulations 1996 (S.I. [1996/207](#)), the Income Support (General) Regulations 1987 (S.I. [1987/1967](#)), the Family Credit (General) Regulations 1987 (S.I. [1987/1973](#)) and the Disability Working Allowance (General) Regulations 1991 (S.I. [1991/2887](#)), in relation to those persons who are undertaking qualifying courses as defined for the purposes of Parts II and IV of the Jobseeker's Allowance Regulations.

Regulations 2 to 5 provide that discretionary payments made to persons undertaking qualifying courses to meet, or help meet special needs, shall, for the purposes of those benefits, be disregarded for the purposes of assessing that person's income or capital or, where such payments are made to third parties, shall not be taken into account as their notional income or notional capital.

Regulation 6 makes technical amendments relating to the numbering of paragraphs in Schedule 7 to the Jobseeker's Allowance Regulations 1996 and to Schedule 9 to the Income Support (General) Regulations 1987.

These Regulations do not impose any charge on business.