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STATUTORY INSTRUMENTS

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**2004 No. 1141**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous  
Amendments) (No. 2) Regulations 2004**

<i>Made</i>	- - - -	<i>14th April 2004</i>
<i>Laid before Parliament</i>		<i>21st April 2004</i>
<i>Coming into force</i>	- -	<i>12th May 2004</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by section 123(1)(a), (d) and (e), sections 135(1), 136(3), 136(5)(b) and (d), sections 137(1), 138(1)(a) and (4) and 175(4) of the Social Security Contributions and Benefits Act 1992 <sup>M1</sup>, sections 12(1), 12(4)(b) and (d), 35(1) and 36(4) of the Jobseekers Act 1995 <sup>M2</sup>, sections 15(3) and (6) and 17(1) of the State Pension Credit Act 2002 <sup>M3</sup> and section 29 of and paragraph 8 of Schedule 1 to the Social Security (Recovery of Benefits) Act 1997 <sup>M4</sup> and all other powers enabling him in that behalf, after consultation in respect of provisions in these regulations relating to housing benefit and council tax benefit with organisations appearing to him to be representative of the authorities concerned <sup>M5</sup>, and after agreement by the Social Security Advisory Committee that proposals in respect of the Regulations should not be referred to it <sup>M6</sup>, hereby makes the following Regulations:

**Marginal Citations**

- M1** 1992 c. 4. Section 123(1)(e) was substituted by paragraph 1 of 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 given to the word “prescribed”.
- M2** 1995 c. 18. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”. Sections 35(1) and 36(4) were amended by section 2 of, and paragraph 62 and 63 respectively of Schedule 3 to the [Social Security Contributions \(Transfer of Functions, etc\) Act 1999 \(1999 c. 2\)](#).
- M3** 2002 c. 16. Section 17(1) is cited because of the meaning given to the words “prescribed” and “regulations”.
- M4** 1997 c. 27. Section 29 is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.
- M5** [Section 176\(1\) of the Social Security Administration Act 1992 \(1992 c. 5\)](#).
- M6** [Sections 170 and 173\(1\) of the Social Security Administration Act 1992](#); [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.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 2) Regulations 2004 and shall come into force on 12th May 2004.

(2) In these Regulations—

F1  
...

F1  
...

“the Income Support Regulations” means the Income Support (General) Regulations 1987<sup>M7</sup>;

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996<sup>M8</sup>;

“the Recovery of Benefits Regulations” means the Social Security (Recovery of Benefits) Regulations 1997<sup>M9</sup>;

“the Social Fund Maternity and Funeral Expenses Regulations” means the Social Fund Maternity and Funeral Expenses (General) Regulations 1987<sup>M10</sup>;

“the State Pension Credit Regulations” means the State Pension Credit Regulations 2002<sup>M11</sup>.

**F1** Words in [reg. 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](#), [Sch. 3](#), [Sch. 4](#))

**Marginal Citations**

- M7** S.I. 1987/1967.
- M8** S.I. 1996/207.
- M9** S.I. 1997/2205.
- M10** S.I. 1987/481.
- M11** S.I. 2002/1792.

**Common amendments relating to interpretation**

2. In regulation 2(1) of<sup>F2</sup>... the Income Support Regulations, in regulation 1(3) of the Jobseeker’s Allowance Regulations and regulation 1(2) of the State Pension Credit Regulations—

(a) in the definition of “qualifying person”<sup>M12</sup> for the words “or the Eileen Trust” there shall be substituted “, the Eileen Trust or the Skipton Fund”;

(b) immediately after the definitions of—

<sup>F3</sup>(i) .....

(ii) in the Income Support Regulations<sup>F4</sup>..., “the Macfarlane Trust”;

(iii) in the Jobseeker’s Allowance Regulations, “single claimant”; and

(iv) in the State Pension Credit Regulations, “qualifying person”;

there shall be inserted the following definition—

““the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions;”.

**F2** Words in [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](#), [Sch. 3](#), [Sch. 4](#))

- F3** Reg. 2(b)(i) 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)
- F4** Words in reg. 2(b)(ii) 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**

- M12** The definition of “qualifying person” was inserted into [S.I. 1987/1967](#) and [1987/1971](#) by [S.I. 1992/1101](#). The relevant amending instrument is [S.I. 1993/1249](#).

**Common amendments relating to capital to be disregarded**

3.—(1) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (2) for the words “section 12, 24 or 26 of the Social Work (Scotland) Act 1968” there shall be substituted “section 12 of the Social Work (Scotland) Act 1968 or sections 29 or 30 of the Children (Scotland) Act 1995”.

(2) The paragraphs of the Schedules specified for the purpose of paragraph (1) above are—

<sup>F5</sup>(a) .....

<sup>F5</sup>(b) .....

(c) paragraph 17<sup>M13</sup> of Schedule 10 to the Income Support Regulations;

(d) paragraph 22<sup>M14</sup> of Schedule 8 to the Jobseeker’s Allowance Regulations.

(3) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (4) for the words “or the Independent Living Funds” there shall be substituted “, the Independent Living Funds or the Skipton Fund”.

(4) The paragraphs of the Schedules specified for the purpose of paragraph (3) above are—

<sup>F6</sup>(a) .....

<sup>F6</sup>(b) .....

(c) paragraph 22(1)<sup>M15</sup> of Schedule 10 to the Income Support Regulations;

(d) paragraph 15(1) of Schedule V to the State Pension Credit Regulations.

(5) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (6) for the words “and the Eileen Trust” there shall be substituted “, the Eileen Trust and the Skipton Fund”.

(6) The paragraphs of the Schedules specified for the purpose of paragraph (5) above are—

<sup>F7</sup>(a) .....

<sup>F7</sup>(b) .....

(c) paragraph 22(7)<sup>M16</sup> of Schedule 10 to the Income Support Regulations;

(d) paragraph 15(7) of Schedule V to the State Pension Credit Regulations.

(7) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (8) after the words “the Eileen Trust” there shall be inserted “, the Skipton Fund”.

(8) The paragraphs of the Schedules specified for the purpose of paragraph (7) above are—

<sup>F8</sup>(a) .....

(b) paragraph 27(1) of Schedule 8 to the Jobseeker’s Allowance Regulations.

- F5** Reg. 3(2)(a)(b) 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)

- F6** Reg. 3(4)(a)(b) 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)
- F7** Reg. 3(6)(a)(b) 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)
- F8** Reg. 3(8)(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, Sch. 3, Sch. 4)

**Marginal Citations**

- M13** The relevant amending instruments are [S.I. 1988/663](#), 1989/1034, 1992/468 and 2001/3070.
- M14** Paragraph 22 was amended by [S.I. 2001/3070](#).
- M15** The relevant amending instruments are [S.I. 1988/663](#), 1991/1175, 1992/1101, 1993/963 and 1993/1249.
- M16** Paragraph 22 was inserted by [S.I. 1988/663](#) and substituted by [S.I. 1991/1175](#). The relevant amending instruments are [S.I. 1992/1101](#) and 1993/1249.

**Common amendments relating to sums to be disregarded in the calculation of income other than earnings**

4.—(1) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (2) for the words “section 21 of the Social Work (Scotland) Act 1968” there shall be substituted “section 26 of the Children (Scotland) Act 1995”.

(2) The paragraphs of the Schedules specified for the purpose of paragraph (1) above are—

- <sup>F9</sup>(a) .....
- <sup>F9</sup>(b) .....

- (c) paragraph 26<sup>M17</sup> of Schedule 9 to the Income Support Regulations;
- (d) paragraph 27 of Schedule 7 to the Jobseeker’s Allowance Regulations.

(3) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (4) for the words “section 12, 24 or 26 of the Social Work (Scotland) Act 1968” there shall be substituted “section 12 of the Social Work (Scotland) Act 1968 or sections 29 or 30 of the Children (Scotland) Act 1995”.

(4) The paragraphs of the Schedules specified for the purpose of paragraph (3) above are—

- <sup>F10</sup>(a) .....
- <sup>F10</sup>(b) .....

- (c) paragraph 28<sup>M18</sup> of Schedule 9 to the Income Support Regulations;
- (d) paragraph 29<sup>M19</sup> of Schedule 7 to the Jobseeker’s Allowance Regulations.

- F9** Reg. 4(2)(a)(b) 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)
- F10** Reg. 4(4)(a)(b) 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** Paragraph 26 was amended by [S.I. 1988/1445](#) and 1992/468.
- M18** Relevant amending instruments are [S.I. 1988/663](#), 1989/1034, 1992/468 and 2001/3070.
- M19** Paragraph 29 was amended by [S.I. 2001/3070](#).

### **Income support and jobseeker’s allowance: capital treated as income**

5. In regulation 41(3)<sup>M20</sup> of the Income Support Regulations and in regulation 104(3)<sup>M21</sup> of the Jobseeker’s Allowance Regulations for the words “section 12, 24 or 26 of the Social Work (Scotland) Act 1968” there shall be substituted “ section 12 of the Social Work (Scotland) Act 1968 or sections 29 or 30 of the Children (Scotland) Act 1995 ”.

#### **Marginal Citations**

**M20** Paragraph 3 was amended by [S.I. 1988/663](#), 1989/1034 and 2001/3070.

**M21** The relevant amending instrument is [S.I. 2001/3070](#).

### **Further amendment of the Income Support Regulations**

6. In paragraph 12(1)(d)(i) of Schedule 2<sup>M22</sup> to the Income Support Regulations (applicable amounts) for the words “Social Security (Hospital In-Patient) Regulations 1975” there shall be substituted “ Social Security (Attendance Allowance) Regulations 1991 or the Social Security (Disability Living Allowance) Regulations 1991 ”.

#### **Marginal Citations**

**M22** Paragraph 12(1)(c) and (d) substituted for paragraph 12(1)(c) as originally enacted, by [S.I. 2002/3019](#).

### **Amendment of the Recovery of Benefit Regulations relating to the Skipton Fund**

7. In regulation 2(2) of the Recovery of Benefit Regulations—

- (a) in sub-paragraph (i) for “10th April 1992.” there shall be substituted “ 10th April 1992; ”;
- (b) after sub-paragraph (i) there shall be inserted—

“(j) any payment made from the Skipton Fund, the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions..”

### **Amendment of the Social Fund Maternity and Funeral Expenses Regulations relating to the Skipton Fund**

<sup>F11</sup>8. ....

**F11** Reg. 8 revoked (5.12.2005) by [The Social Fund Maternity and Funeral Expenses \(General\) Regulations 2005 \(S.I. 2005/3061\)](#), reg. 1, [Sch.](#)

Signed by authority of the Secretary of State for Work and Pensions.

*Chris Pond*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

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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 Housing Benefit (General) Regulations 1987 (S.I. 1987/1971), the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) and the State Pension Credit Regulations 2002 (S.I. 2002/1792) ("the Principal Regulations").

These Regulations also amend the Social Fund Maternity and Funeral Expenses (General) Regulations 1987 (S.I. 1987/481) ("the Social Fund Maternity and Funeral Expenses Regulations") and the Social Security (Recovery of Benefits) Regulations 1997 (S.I. 1997/2205) ("the Recovery of Benefit Regulations").

The Principal Regulations are amended to—

- insert a definition of the Skipton Fund (regulation 2);
- include in the definition of "qualifying person" reference to a person in respect of whom payment has been made from the Skipton Fund (regulation 2); and
- provide that payments made to a person from the Skipton Fund will be disregarded when calculating a person's capital and, in the case of the State Pension Credit Regulations 2002, provide that payments received will be disregarded for the purpose of calculating a person's income from capital (regulation 3(3) – (8)).

The Skipton Fund is an ex-gratia payment scheme administered by the Skipton Fund Limited on behalf of the Department of Health for the benefit of persons who have contracted hepatitis C from NHS blood, blood products or tissue.

Except in the case of the State Pension Credit Regulations 2002, the Principal Regulations are also amended to substitute references to the Social Work (Scotland) Act 1968, which were repealed by the Children (Scotland) Act 1995, with references to the latter Act (regulations 3(1) and (2), 4 and 5).

Regulation 6 amends the Income Support (General) Regulations 1987 to correct a reference to supporting legislation in the conditions for Higher Pensioner Premium and Disability Premium which was inserted by the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019).

Regulation 7 amends regulation 2(2) of the Recovery of Benefit Regulations to include an exemption for payments made from the Skipton Fund from the compensation recovery scheme.

Regulation 8 amends regulation 8 of the Social Fund Maternity and Funeral Expenses Regulations to provide that payments received from the Skipton Fund will not be deducted from an award of a funeral payment.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2004.