

2004 No. 565

SOCIAL SECURITY

CHILDREN AND YOUNG PERSONS

**The Social Security (Miscellaneous Amendments) Regulations
2004**

Made - - - - *1st March 2004*

Laid before Parliament *9th March 2004*

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 113(3), 123(1)(a), (d) and (e), 136(3), (4) and (5)(b), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 2A(1), (3)(b) to (f), (4), (5)(a) and (b), (6), (7) and (8), 2B(2), (6) and (7), 2C, 73(1), 189(1), (4) to (6) and 191 of the Social Security Administration Act 1992(b), sections 4(5), 12(1) and (4)(b), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(c), section 6(3), (6) and (7) of the Children (Leaving Care) Act 2000(d) and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992(e) in respect of the provisions in regulation 7 and 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(f) and after agreement by the Social Security Advisory Committee that proposals in respect of regulations 2 to 11 and regulation 1 in so far as it applies to those regulations should not be referred to it(g), hereby makes the following Regulations:

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- (a) 1992 c. 4. Section 113(3) was amended by section 86(1) of, and paragraph 66 of Schedule 7 to, the Social Security Act 1998 (c. 14). Section 123(1)(e) was substituted by paragraph 1(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 there given to the word “prescribed”. Section 175(4) was amended by section 2 of, and paragraph 29 of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
- (b) 1992 c. 5. Sections 2A, 2B and 2C were inserted by sections 57 and 58 of the Welfare Reform and Pensions Act 1999 (c. 30). Section 73(1) was amended by section 41(4) of, and paragraph 49(2) of Schedule 2 to, the Jobseekers Act 1995 (c. 18). Section 189(4) to (6) was amended by section 86 of, and paragraph 109 of Schedule 7 to, the Social Security Act 1998. Section 191 is an interpretation provision and is cited because of the meaning there given to the word “prescribe”.
- (c) Section 35(1) is an interpretation provision and is cited because of the meaning there given to the words “prescribed” and “regulations”. Sections 35(1) and 36(4) were amended by section 2 of, and paragraphs 62 and 63 respectively of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (d) 2000 c. 35.
- (e) 1992 c. 53.
- (f) See section 176(1) of the Social Security Administration Act 1992 (c. 5) as amended by section 103 of, and paragraph 23 of Schedule 9 to, the Local Government Finance Act 1992.
- (g) See sections 172(1) and 173(1)(b) 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) Regulations 2004.

(2) These Regulations shall come into force for the purposes of—

- (a) regulations 1 to 6 and 12, on 1st April 2004;
- (b) regulation 7, on 5th April 2004;
- (c) regulations 9 and 10, on 6th April 2004;
- (d) regulation 8, on 12th April 2004; and
- (e) regulation 11, in so far as it relates to a claimant for income support or, as the case may be, a jobseeker's allowance, on the first day of the first benefit week to commence for that claimant on or after 12th April 2004.

(3) In paragraph (2)(e) “benefit week” has the same meaning as in—

- (a) the Income Support (General) Regulations 1987(a), in so far as that paragraph relates to a claimant for income support; and
- (b) the Jobseeker's Allowance Regulations 1996(b), in so far as that paragraph relates to a claimant for a jobseeker's allowance.

Amendment of the Income Support (General) Regulations 1987 in relation to income and capital disregards

2.—(1) The Income Support (General) Regulations 1987(c) shall be amended in accordance with this regulation.

(2) In regulation 2(1) (interpretation) omit the definition of “ERA payment”(d).

(3) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

(a) for paragraph 13(e) substitute the following paragraph—

“13.—(1) Any payment made pursuant to section 2 of the Employment and Training Act 1973(f) (functions of the Secretary of State) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(g) (functions in relation to training for employment etc.) except a payment—

- (a) made as a substitute for income support, a jobseeker's allowance, incapacity benefit or severe disablement allowance;
- (b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990;
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan(h) paid pursuant to section 2 of the Employment and Training Act 1973 and the period of education or training or the scheme, which is supported by that loan, has been completed; or
- (d) made in respect of the cost of living away from home to the extent that the payment relates to rent for which housing benefit is payable in respect of accommodation which is not normally occupied by the claimant as his home.

(a) S.I. 1987/1967. The definition of “benefit week” was amended by S.I. 1988/1445.

(b) S.I. 1996/207. The definition of “benefit week” was amended by S.I. 1996/1517 and 2538.

(c) Relevant amending instruments are S.I. 1988/1445, 663, 1992/468, 1997/2863, 1998/2117, 1999/2556, 3156, 2001/721, 859, 1029, 3767, 2002/2314, 2003/455, 1589, 2279 and 2439.

(d) The definition of “ERA payment” was inserted by S.I. 2003/2279.

(e) Paragraph 13 was substituted by S.I. 1988/663 and amended by S.I. 1997/2863 and 2001/1029.

(f) 1973 c. 50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19).

(g) 1990 c. 35.

(h) Information about this Loan can be obtained from any Jobcentre Plus office or by telephoning 0800-585 505.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 17(1)(e) or 18(1)(f) (housing costs), of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of this paragraph, “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”;

- (b) in paragraph 51(a) omit from “or in accordance with” to “Act 1973”;
- (c) in paragraph 70(b) omit from “or any payment” to “Act 1973”;
- (d) omit paragraphs 59(c), 60(d), 62(e), 62A(f), 63(g), 65(h), 77(i) and 78(j).

(4) In Schedule 10 (capital to be disregarded)—

- (a) for paragraph 30(k) substitute the following paragraph—

“30. Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.”;

- (b) in paragraph 42(l) omit—

- (i) “, or a training bonus under section 2 of the Employment and Training Act 1973”;
 - and

- (ii) from “or in accordance with” to “Act 1973”;

- (c) omit paragraphs 50(m), 50A(n), 51(o), 53(p), 69(q) and 70(r).

Amendment of the Housing Benefit (General) Regulations 1987 in relation to income and capital disregards

3.—(1) The Housing Benefit (General) Regulations 1987(s) shall be amended in accordance with this regulation.

(2) In regulation 2(1) (interpretation) omit the definition of “ERA payment”(t).

(3) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—

- (a) for paragraph 11(u) substitute the following paragraph—

“11.—(1) Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except—

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- (a) Paragraph 51 was inserted by S.I. 1992/468.
 - (b) Paragraph 70 was inserted by S.I. 1999/2556, amended by S.I. 2001/859 and 2003/455 and is revoked by S.I. 2003/1589 with effect from 25 October 2004.
 - (c) Paragraph 59 was inserted by S.I. 1997/65 and amended by S.I. 2001/3767.
 - (d) Paragraph 60 was inserted by S.I. 1997/65.
 - (e) Paragraph 62 was inserted by S.I. 1997/2863, substituted by S.I. 2001/1029 and amended by S.I. 2002/2314.
 - (f) Paragraph 62A was inserted by S.I. 2002/2314.
 - (g) Paragraph 63 was inserted by S.I. 1997/2863.
 - (h) Paragraph 65 was inserted by S.I. 1998/2117 and amended by S.I. 2001/721.
 - (i) Paragraph 77 was added by S.I. 2003/2279.
 - (j) Paragraph 78 was added by S.I. 2003/2439.
 - (k) Paragraph 30 was inserted by S.I. 1988/1445 and amended by S.I. 1993/2119.
 - (l) Paragraph 42 was inserted by S.I. 1992/468.
 - (m) Paragraph 50 was inserted by S.I. 1997/2863, substituted by S.I. 2001/1029 and amended by S.I. 2002/2314.
 - (n) Paragraph 50A was inserted by S.I. 2002/2314.
 - (o) Paragraph 51 was inserted by S.I. 1997/2863.
 - (p) Paragraph 53 was inserted by S.I. 1998/2117.
 - (q) Paragraph 69 was added by S.I. 2003/2279.
 - (r) Paragraph 70 was added by S.I. 2003/2439.
 - (s) S.I. 1987/1971. Relevant amending instruments are S.I. 1988/909, 1971, 1992/432, 1993/2118, 1997/65, 2863, 1998/2164, 1999/3156, 2001/859, 1029, 2002/2314, 2003/2279 and 2439.
 - (t) The definition of “ERA payment” was inserted by S.I. 2003/2279.
 - (u) Paragraph 11 was substituted by S.I. 1988/909 and amended by S.I. 1991/387, 1997/2863 and 2001/1029.

- (a) a payment made as a substitute for income support, a jobseeker's allowance, incapacity benefit or severe disablement allowance;
- (b) a payment of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990;
- (c) a payment intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 and the period of education or training or the scheme, which is supported by that loan, has been completed; or
- (d) for the purpose only of assessing entitlement to housing benefit in respect of a dwelling other than the one which the claimant normally occupies as his home, a payment made to a person to whom regulation 5(5)(b)(a) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) applies to the extent that the payment is made in respect of the cost of living away from home.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of this paragraph—

“ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities; and

“rent” means eligible rent less any deductions in respect of non-dependants which fall to be made under regulation 63 (non-dependant deductions).”;

- (b) in paragraph 49(b) omit from “or in accordance with” to “Act 1973”;
- (c) omit paragraphs 63(c), 64(d), 64A(e), 65(f), 68(g), 76(h) and 77(i).

(4) In Schedule 5 (capital to be disregarded)—

- (a) for paragraph 33(j) substitute the following paragraph—

“**33.** Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.”;

- (b) in paragraph 43(k) omit—
 - (i) “, or a training bonus under section 2 of the Employment and Training Act 1973”;
 - and
 - (ii) from “or in accordance with” to “Act 1973”;

(a) Regulation 5(5)(b) was amended by S.I. 1990/1549.
 (b) Paragraph 49 was inserted by S.I. 1992/432.
 (c) Paragraph 63 was inserted by S.I. 1997/65.
 (d) Paragraph 64 was inserted by S.I. 1997/2863 and substituted by S.I. 2001/1029.
 (e) Paragraph 64A was inserted by S.I. 2002/2314.
 (f) Paragraph 65 was inserted by S.I. 1997/2863.
 (g) Paragraph 68 was inserted by S.I. 1998/2164.
 (h) Paragraph 76 was added by S.I. 2003/2279.
 (i) Paragraph 77 was added by S.I. 2003/2439.
 (j) Paragraph 33 was inserted by S.I. 1988/1971 and amended by S.I. 1991/387 and 1993/2118.
 (k) Paragraph 43 was inserted by S.I. 1992/432.

- (c) omit paragraphs 53(a), 53A(b), 54(c), 56(d), 65(e), 71(f) and 72(g).

Amendment of the Council Tax Benefit (General) Regulations 1992 in relation to income and capital disregards

4.—(1) The Council Tax Benefit (General) Regulations 1992(h) shall be amended in accordance with this regulation.

(2) In regulation 2(1) (interpretation) omit the definition of “ERA payment”(i).

(3) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—

(a) for paragraph 11(j) substitute the following paragraph—

“11.—(1) Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment—

- (a) made as a substitute for income support, a jobseeker’s allowance, incapacity benefit or severe disablement allowance;
- (b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990; or
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 and the period of education or training or the scheme, which is supported by that loan, has been completed.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel or rent of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of this paragraph, “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”;

(b) in paragraph 48 omit from “or in accordance with” to “Act 1973”;

(c) omit paragraphs 63(k), 64(l), 64A(m), 65(n), 67(o), 75(p) and 76(q).

(4) In Schedule 5 (capital to be disregarded)—

(a) for paragraph 33(r) substitute the following paragraph—

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- (a) Paragraph 53 was inserted by S.I. 1997/2863 and substituted by S.I. 2001/1029.
 - (b) Paragraph 53A was inserted by S.I. 2002/2314.
 - (c) Paragraph 54 was inserted by S.I. 1997/2863.
 - (d) Paragraph 56 was inserted by S.I. 1998/2164.
 - (e) Paragraph 65 was inserted by S.I. 2001/859.
 - (f) Paragraph 71 was added by S.I. 2003/2279.
 - (g) Paragraph 72 was added by S.I. 2003/2439.
 - (h) S.I. 1992/1814. Relevant amending instruments are S.I. 1993/2118, 1997/65, 2863, 1998/2164, 1999/3156, 2001/859, 1029, 2002/2314, 2003/2279 and 2439.
 - (i) The definition of “ERA payment” was inserted by S.I. 2003/2279.
 - (j) Paragraph 11 was amended by S.I. 1997/2863 and 2001/1029.
 - (k) Paragraph 63 was inserted by S.I. 1997/65.
 - (l) Paragraph 64 was inserted by S.I. 1997/2863 and substituted by S.I. 2001/1029.
 - (m) Paragraph 64A was inserted by S.I. 2002/2314.
 - (n) Paragraph 65 was inserted by S.I. 1997/2863.
 - (o) Paragraph 67 was inserted by S.I. 1998/2164.
 - (p) Paragraph 75 was added by S.I. 2003/2279.
 - (q) Paragraph 76 was added by S.I. 2003/2439.
 - (r) Paragraph 33 was amended by S.I. 1993/2118.

“33. Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.”;

- (b) in paragraph 42 omit—
 - (i) “, or training bonus under section 2 of the Employment and Training Act 1973”; and
 - (ii) from “or in accordance with” to “Act 1973”;
- (c) omit paragraphs 53(a), 53A(b), 54(c), 56(d), 65(e), 71(f) and 72(g).

Amendment of the Jobseeker’s Allowance Regulations 1996 in relation to income and capital disregards

5.—(1) The Jobseeker’s Allowance Regulations 1996(h) shall be amended in accordance with this regulation.

- (2) In regulation 1(3) (interpretation) omit the definition of “ERA payment”(i).
- (3) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—
 - (a) for paragraph 14(j) substitute the following paragraph—

“14.—(1) Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 except a payment—

- (a) made as a substitute for income support, a jobseeker’s allowance, incapacity benefit or severe disablement allowance;
- (b) of an allowance referred to in section 2(3) of the Employment and Training Act 1973 or section 2(5) of the Enterprise and New Towns (Scotland) Act 1990;
- (c) intended to meet the cost of living expenses which relate to any one or more of the items specified in sub-paragraph (2) whilst a claimant is participating in an education, training or other scheme to help him enhance his employment prospects unless the payment is a Career Development Loan paid pursuant to section 2 of the Employment and Training Act 1973 and the period of education or training or the scheme, which is supported by that loan, has been completed; or
- (d) made in respect of the cost of living away from home to the extent that the payment relates to rent for which housing benefit is payable in respect of accommodation which is not normally occupied by the claimant as his home.

(2) The items specified in this sub-paragraph for the purposes of sub-paragraph (1)(c) are food, ordinary clothing or footwear, household fuel, rent for which housing benefit is payable, or any housing costs to the extent that they are met under regulation 83(f) or 84(1)(g) (housing costs), of the claimant or, where the claimant is a member of a family, any other member of his family, or any council tax or water charges for which that claimant or member is liable.

(3) For the purposes of this paragraph, “ordinary clothing or footwear” means clothing or footwear for normal daily use, but does not include school uniforms, or clothing or footwear used solely for sporting activities.”;

- (b) in paragraph 50 omit from “or in accordance with” to “Act 1973.”;

(a) Paragraph 53 was inserted by S.I. 1997/2863 and substituted by S.I. 2001/1029.

(b) Paragraph 53A was inserted by S.I. 2002/2314.

(c) Paragraph 54 was inserted by S.I. 1997/2863.

(d) Paragraph 56 was inserted by S.I. 1998/2164.

(e) Paragraph 65 was inserted by S.I. 2001/859.

(f) Paragraph 71 was added by S.I. 2003/2279.

(g) Paragraph 72 was added by S.I. 2003/2439.

(h) Relevant amending instruments are S.I. 1997/2863, 1998/563, 2117, 1999/3156, 2001/1029, 3767, 2002/2314, 2003/2279 and 2439.

(i) The definition of “ERA payment” was inserted by S.I. 2003/2279.

(j) Paragraph 14 was amended by S.I. 1997/2863 and 2001/1029.

- (c) omit paragraphs 57(a), 58, 60(b), 60A(c), 61(d), 63(e), 73(f) and 74(g).
- (4) In Schedule 8 (capital to be disregarded)—
 - (a) for paragraph 32 substitute the following paragraph—

“32. Any payment made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990, but only for the period of 52 weeks beginning on the date of receipt of the payment.”;
 - (b) in paragraph 40 omit—
 - (i) “, or a training bonus under section 2 of the Employment and Training Act 1973”;
 - and
 - (ii) from “or in accordance with” to “Act 1973.”;
 - (c) omit paragraphs 45(h), 45A(i), 46(j), 48(k), 62(l) and 63(m).

Amendment of the Jobseeker’s Allowance Regulations 1996 in relation to residential allowance

6.—(1) The Jobseeker’s Allowance Regulations 1996(n) shall be amended in accordance with this regulation.

- (2) In regulation 86C(o) (joint-claim couples: special cases)—
 - (a) in paragraph (1) for “Subject to paragraph (2A) where” substitute “Where”;
 - (b) omit paragraph (2A)(p);
 - (c) in paragraph (3) for “paragraphs 1 and 11 (persons in residential care or nursing home who become patients)” substitute “paragraph 1 (patients)”.

(3) In Schedule 5A(q) (applicable amounts of joint-claim couples in special cases) omit paragraph 6 (joint-claim couples and members of polygamous marriages where one member is, or all are, temporarily in local authority accommodation).

Amendment of the Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000

7.—(1) The Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000(r) shall be amended in accordance with this regulation.

(2) For sub-paragraph (g) of regulation 1(3) (commencement) substitute the following sub-paragraph—

“(g) subject to the preceding sub-paragraphs, come into force on 5th April 2004 in respect of a lone parent who on that date is entitled to income support and is responsible for and living in the same household as a child.”.

(a) Paragraph 57 was inserted by S.I. 1997/65 and amended by S.I. 2001/3767.
 (b) Paragraph 60 was inserted by S.I. 1997/2863 and substituted by S.I. 2001/1029.
 (c) Paragraph 60A was inserted by S.I. 2002/2314.
 (d) Paragraph 61 was inserted by S.I. 1997/2863.
 (e) Paragraph 63 was inserted by S.I. 1998/563 and substituted by S.I. 1998/2117.
 (f) Paragraph 73 was added by S.I. 2003/2279.
 (g) Paragraph 74 was added by S.I. 2003/2439.
 (h) Paragraph 45 was inserted by S.I. 1997/2863 and substituted by S.I. 2001/1029.
 (i) Paragraph 45A was inserted by S.I. 2002/2314.
 (j) Paragraph 46 was inserted by S.I. 1997/2863.
 (k) Paragraph 48 was inserted by S.I. 1998/2117.
 (l) Paragraph 62 was added by S.I. 2003/2279.
 (m) Paragraph 63 was added by S.I. 2003/2439.
 (n) Relevant amending instruments are S.I. 2000/1978, 2001/3767, 2002/668, 2003/526, 1121 and 1195.
 (o) Regulation 86C was inserted by S.I. 2000/1978 and amended by S.I. 2001/3767.
 (p) Paragraph (2A) was inserted by S.I. 2001/3767.
 (q) Schedule 5A was inserted by S.I. 2000/1978 and amended by S.I. 2001/3767, 2002/668, 2003/526, 1121 and 1195.
 (r) S.I. 2000/1926 as amended by S.I. 2001/1189, 3210, 2002/670, 1703, 2003/400 and 492.

Amendment of the Social Security (Overlapping Benefits) Regulations 1979

8.—(1) The Social Security (Overlapping Benefits) Regulations 1979(a) shall be amended in accordance with this regulation.

(2) In regulation 8(2)(b) and (3) (child benefit) for “£3.50” substitute “£3.65”.

Amendment of the Housing Benefit (General) Regulations 1987 in relation to working tax credit and child tax credit

9.—(1) The Housing Benefit (General) Regulations 1987(b) shall be amended in accordance with this regulation.

(2) In regulation 2(1)(c) (interpretation) after the definition of “supplementary benefit” insert the following definition—

““tax year” means, for the purposes of regulation 25 as substituted by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003(d) (meaning of “income”) and regulation 33 (calculation of income other than earnings), a period beginning with 6th April in one year and ending with 5th April in the next;”.

(3) In regulation 25 as substituted by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (meaning of “income”) after paragraph (3) insert the following paragraph—

“(3A) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002(e) is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under paragraph (1) shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.”.

(4) In regulation 33 (calculation of income other than earnings) after paragraph (3) insert the following paragraph—

“(3AA) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under paragraph (1) shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.”.

Amendment of the Council Tax Benefit (General) Regulations 1992 in relation to working tax credit and child tax credit

10.—(1) The Council Tax Benefit (General) Regulations 1992(f) shall be amended in accordance with this regulation.

(2) In regulation 2(1) (interpretation) after the definition of “supplementary benefit” insert the following definition—

““tax year” means, for the purposes of regulation 17 as substituted by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (meaning of “income”) and regulation 24 (calculation of income other than earnings), a period beginning with 6th April in one year and ending with 5th April in the next;”.

(a) S.I. 1979/597. Relevant amending instruments are S.I. 1991/547, 1617, 1992/589, 1993/965, 1996/1803, 2000/799 and 2003/136.

(b) Relevant amending instruments are S.I. 2000/636, 2001/2319, 2002/841, 2402, 2003/325 and 2275. Regulations 25 and 33 were substituted in relation to any person who has attained the qualifying age for state pension credit by S.I. 2003/325.

(c) The definition of “supplementary benefit” was inserted by S.I. 1992/432.

(d) S.I. 2003/325.

(e) 2002 c. 21.

(f) Relevant amending instruments are S.I. 2000/636, 2001/2319, 2002/841, 2402 and 2003/325. Regulations 17 and 24 were substituted in relation to any person who has attained the qualifying age for state pension credit by S.I. 2003/325.

(3) In regulation 17 as substituted by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (meaning of “income”) after paragraph (3) insert the following paragraph—

“(3A) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under paragraph (1) shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.”.

(4) In regulation 24 (calculation of income other than earnings) after paragraph (3) insert the following paragraph—

“(3A) Where an award of any working tax credit or child tax credit under the Tax Credits Act 2002 is subject to a deduction by way of recovery of an overpayment of working tax credit or child tax credit which arose in a previous tax year the amount to be taken into account under paragraph (1) shall be the amount of working tax credit or child tax credit awarded less the amount of that deduction.”.

Amendment of the Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003

11.—(1) The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003(a) shall be amended in accordance with this regulation.

(2) In regulation 7(6) (income support – transitional arrangements) and regulation 8(5) (jobseeker’s allowance – transitional arrangements) for “£10.45” substitute “£10.50”.

Amendment of the Children (Leaving Care) Social Security Benefits Regulations 2001

12. At the end of paragraph (3) of regulation 2 of the Children (Leaving Care) Social Security Benefits Regulations 2001(b) (entitlement to benefits) add the words “provided that he ceased to be so looked after before 1st April 2004”.

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

1st March 2004

P.Hollis
Parliamentary Under-Secretary of State,
Department for Work and Pensions

(a) S.I. 2003/455. The relevant amending instrument is S.I. 2003/1731.
(b) S.I. 2001/3074.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations 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) and the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) (“the Principal Regulations”) in respect of certain provisions in the income and capital disregard Schedules to those Regulations (regulations 2 to 5);

the Jobseeker's Allowance Regulations 1996 as a consequence of the cessation of the payment of a residential allowance or special amounts to those residing in residential care or nursing homes or who are in residential accommodation (regulation 6);

the Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000 (S.I. 2000/1926) (“the Work-focused Interviews for Lone Parents Regulations”) to provide that lone parents who are entitled to income support on 5th April 2004 shall be required to take part in work-focused interviews regardless of the age of their youngest child (regulation 7);

the Social Security (Overlapping Benefits) Regulations 1979 (S.I. 1979/597), the Housing Benefit (General) Regulations 1987, the Council Tax Benefit (General) Regulations 1992 and the Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 (S.I. 2003/455) as a result of changes to the rates of working tax credit and child tax credit from 6th April 2004 and child benefit from 12th April 2004 (regulations 8 to 11);

the Children (Leaving Care) Social Security Benefits Regulations 2001 (S.I. 2001/3074) in relation to a prescribed category of children who have left the care of a local authority to whom section 6 of the Children (Leaving Care) Act 2000 (c. 35) does not apply (regulation 12).

Regulations 2 to 5 of these Regulations amend the income disregard Schedules of the Principal Regulations to make provision for one paragraph to disregard (with certain exceptions) any payment made to a claimant or his partner pursuant to section 2 of the Employment and Training Act 1973 (c. 50) or section 2 of the Enterprise and New Towns (Scotland) Act 1990 (c. 35) in the calculation of income other than earnings.

The capital disregard Schedules of the Principal Regulations are similarly amended so that one paragraph provides for payments made pursuant to section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 to be disregarded as capital. The amendments also provide for the capital disregard to apply only for a period of 52 weeks from when the payment is received, and for the removal of a £200 limit on the disregard of training bonus payments.

Certain paragraphs of those Schedules which refer to the disregard of specific payments made pursuant to those Acts are consequentially amended or omitted.

Regulation 6 amends the Jobseeker's Allowance Regulations 1996 as a consequence of the cessation of the payment of a residential allowance or special amounts to recipients of income-based jobseeker's allowance who are residing in residential care homes or nursing homes or who are in residential accommodation as defined in regulation 85(4) of the Jobseeker's Allowance Regulations 1996.

Regulation 6(2) amends regulation 86C of the 1996 Regulations in consequence of the omission of certain paragraphs of Schedule 5A to the 1996 Regulations.

Regulation 6(3) omits paragraph 6 of Schedule 5A to the 1996 Regulations as a consequence of the cessation of the payment of the special amounts to recipients of income-based jobseeker's allowance who are residing in residential accommodation provided by the local authority.

Regulation 7(2) of these Regulations substitutes a new sub-paragraph for sub-paragraph (g) of regulation 1(3) of the Work-focused Interviews for Lone Parents Regulations to provide that a

lone parent who is entitled to income support on 5th April 2004 and who has a child (which is defined in section 137(1) of the Social Security Contributions and Benefits Act 1992 (c. 4) as being a person who is under the age of 16) shall be required to take part in a work-focused interview in accordance with those Regulations.

Regulation 8 amends the Social Security (Overlapping Benefits) Regulations 1979 to ensure that the adjustments of benefit by reference to the rate of child benefit in respect of the only, elder or eldest child or payable in respect of a child of a lone parent remain the same despite an increase in the difference between the rates of child benefit from 12th April 2004.

Regulations 9 and 10 amend the Housing Benefit (General) Regulations 1987 and the Council Tax Benefit (General) Regulations 1992 to provide that the amount of working tax credit or child tax credit to be taken into account when assessing entitlement to housing benefit or, as the case may be, council tax benefit shall be the amount of tax credit awarded less any deduction which is being made in order to recover any overpayment of tax credit.

Regulation 11 amends the Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 to increase with effect from the first day of the first benefit week to commence for a claimant of income support or a jobseeker's allowance on or after 12th April 2004 the income support or jobseeker's allowance income disregard for families in which there is a child under the age of one.

Regulation 12 amends the Children (Leaving Care) Social Security Benefits Regulations 2001 in order to apply section 6 of the Children (Leaving Care) Act 2000 to children who have left the care of a local authority in England or Wales on or after 1st April 2004 and who subsequently reside in Scotland.

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

STATUTORY INSTRUMENTS

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