
STATUTORY INSTRUMENTS

2005 No. 2465

SOCIAL SECURITY

**The Social Security (Miscellaneous
Amendments) (No. 2) Regulations 2005**

Made - - - - 5th September 2005

Laid before Parliament 9th September 2005

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 123(1)(a), (d) and (e), 134, 136, 137(1) and 175(1), (3), (4) and (5) of the Social Security Contributions and Benefits Act 1992 ^{M1}, sections 12(1), (2) and (4), 13(1) and (2A), 35(1) and 36(2) and (4) of the Jobseekers Act 1995 ^{M2} and sections 15(1)(j), (3) and (6)(b) and 17(1) of the State Pension Credit Act 2002 ^{M3} and of 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 ^{M4}, and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it ^{M5}, hereby makes the following Regulations:

Marginal Citations

- M1** 1992 c. 4. 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(1) and (4) were amended by section 2 of, and paragraph 29 of Schedule 3 to, the [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c. 2\)](#). Section 175(1), (3) and (4) are applied to provisions of the State Pension Credit Act 2002 by section 19(1) of that Act.
- M2** 1995 c. 18. Section 13(2A) was inserted by paragraph 9(2) of Schedule 7 to the [Welfare Reform and Pensions Act 1999 \(c. 30\)](#). 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.
- M3** 2002 c. 16. Section 17(1) is an interpretation provision and is cited because of the meaning there given to the words “prescribed” and “regulations”.
- M4** 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.
- M5** 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 and paragraph 20 of Schedule 2 to the State Pension Credit Act

2002 respectively added those Acts 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 2005.

(2) Subject to paragraphs (3) to (6), these Regulations shall come into force on 3rd October 2005.

(3) The following provisions shall come into force on 30th December 2005—

- (a) regulation 2(8)(b) and (c) and (9);
- (b) regulation 3(8)(b) and (c) and (9);
- (c) regulation 4(5)(c) and (d) and (6);
- (d) regulation 5(5)(c) and (d) and (6).

(4) Regulations 4(4) and 5(4) shall come into force on 1st April 2006.

(5) The following provisions shall come into force on 6th April 2006—

- (a) regulation 2(3)(a) to (d) and (5);
- (b) regulation 3(3)(a) to (e) and (5);
- (c) regulation 4(2) and (3);
- (d) regulation 5(2) and (3).

(6) The following provisions shall come into force on the first day of the first benefit week commencing on or after 10th April 2006—

- (a) regulation 2(2), (4), (6) and (7);
- (b) regulation 3(2), (4), (6) and (7).

(7) In paragraph (6) the term “benefit week”, so far as it relates to regulation 2, has the same meaning as in regulation 2(1) of the Income Support Regulations and, so far as it relates to regulation 3, has the same meaning as in regulation 1(3) of the Jobseeker's Allowance Regulations.

(8) In these Regulations—

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992 ^{M6};

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987 ^{M7};

“the Income Support Regulations” means the Income Support (General) Regulations 1987 ^{M8};

“the Jobseeker's Allowance Regulations” means the Jobseeker's Allowance Regulations 1996 ^{M9};

“the State Pension Credit Regulations” means the State Pension Credit Regulations 2002 ^{M10}.

Marginal Citations

M6 [S.I. 1992/1814.](#)

M7 [S.I. 1987/1971.](#)

M8 [S.I. 1987/1967.](#)

M9 [S.I. 1996/207.](#)

M10 [S.I. 2002/1792.](#)

Amendment of the Income Support Regulations

2.—(1) The Income Support Regulations are amended as follows.

(2) In regulation 41(1) (capital treated as income) ^{M11}, omit “£8,000 or, in a case where regulation 45(aa) applies, £12,000 or, in a case where regulation 45(b) applies,”.

(3) In regulation 42 (notional income)—

(a) in paragraph (2)(g) ^{M12}, after “personal pension scheme” insert “, occupational pension scheme”;

(b) for paragraph (2A) ^{M13} substitute—

“(2ZA) A claimant who has attained the age of 60 shall be treated as possessing—

(a) the amount of any income from an occupational pension scheme, personal pension scheme or retirement annuity contract—

(i) for which no claim has been made, and

(ii) to which he might expect to be entitled if a claim for it were made;

(b) income from an occupational pension scheme which the claimant elected to defer,

but only from the date on which it could be expected to be acquired were an application for it to be made.

(2A) Where a person, aged not less than 60, is a person entitled to money purchase benefits under an occupational pension scheme or a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, and—

(a) in the case of an occupational pension scheme or personal pension scheme, he fails to purchase an annuity with the funds available in that scheme where—

(i) he defers, in whole or in part, the payment of any income which would have been payable to him by his pension fund holder,

(ii) he fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or

(iii) income withdrawal is not available to him under that scheme; or

(b) in the case of a retirement annuity contract, he fails to purchase an annuity with the funds available under that contract,

the amount of any income foregone shall be treated as possessed by him, but only from the date on which it could be expected to be acquired were an application for it to be made.”;

(c) in paragraph (2C)—

(i) for “relevant personal pension scheme” substitute “ relevant occupational or personal pension scheme”;

(ii) for “under a personal pension scheme” substitute “ under a scheme”;

(d) after paragraph (2C) insert—

“(2CA) In paragraph (2A), “money purchase benefits” has the meaning it has in the Pension Schemes Act 1993 ^{M14}.”;

(e) at the end of paragraph (4) ^{M15}, after “any payment in kind” insert “ to the third party”.

(4) For regulation 45 (capital limit) ^{M16} substitute—

“Capital limit

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), the prescribed amount is £16,000.”

- (5) In regulation 51 (notional capital), after paragraph (2)(d) ^{M17} insert—
- “(da) an occupational pension scheme where the claimant is aged under 60; or”.
- (6) In regulation 53 (calculation of tariff income from capital) ^{M18}—
- (a) in paragraph (1)—
- (i) omit “(1ZA) or”,
- (ii) for “£3,000” (in both places) substitute “ £6,000 ”, and
- (iii) for “£8,000” substitute “ £16,000 ”;
- (b) omit paragraph (1ZA);
- (c) in paragraph (1B), omit “and regulation 45”;
- (d) in paragraphs (2) and (3), omit “, (1ZA)”.
- (7) In Schedule 3 (housing costs) ^{M19}, in paragraph 14(4)(a) and (c) for “£8,000” substitute “ £16,000 ”.
- (8) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
- (a) after paragraph 21(3) ^{M20} add—
- “(4) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the claimant which is used by the third party to provide benefits in kind to the claimant.”.
- (b) in paragraph 25(1)(a) ^{M21}, for “in accordance with regulations made pursuant to section 57A of the Adoption Act 1976 (permitted allowances) or paragraph 3 of Schedule 4 to the Adoption and Children Act 2002 or” substitute “ pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 ^{M22} or in accordance ”;
- (c) for paragraph 25(1A) ^{M23} substitute—
- “(1A) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.”.
- (9) In Schedule 10 (capital to be disregarded), for paragraph 68 ^{M24} substitute—
- “**68.** Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.”.

Marginal Citations

- M11** Regulation 41(1) was substituted by S.I. 1999/3178, **Schedule 5, paragraph 3**, and amended by S.I. 2000/2545, **reg. 2(1)(a)**.
- M12** Paragraph (2)(g) was inserted by S.I. 1995/2303, **reg. 6(4)(a)**.
- M13** Paragraphs (2A) to (2C) were inserted by S.I. 1995/2303, **reg. 6(4)(b)**.
- M14** 1993 c. 48.
- M15** Paragraph (4) was substituted by S.I. 1988/1445, **reg. 10(a)**, and amended by S.I. 1990/1776, **reg. 4**, S.I. 1991/1559, reg. 8(a) and (b), S.I. 1993/315, **Schedule**, paragraph 2, S.I. 1994/527, **reg. 4(2)(b)**, S.I. 1995/2792, reg. 6(2), S.I. 1995/3282, **reg. 2**, S.I. 1998/2117, reg. 2(2)(a), S.I. 1999/2640, **reg. 2(1)**

- (a), S.I. 2002/841, reg. 2(2), S.I. 2003/455, **Schedule 1**, paragraph 10(e), and S.I. 2005/574, **regs. 2(5)** and 3(3)(b).
- M16** Regulation 45 was substituted by S.I. 1996/462, **reg. 12(1)(a)**, and amended by S.I. 2000/2545, **reg. 2(1)(b)**.
- M17** Paragraph (2)(d) was inserted by S.I. 1995/2303, **reg. 6(5)**.
- M18** Regulation 53 was amended by S.I. 1988/2022, **reg. 13**, S.I. 1990/671, reg. 5(2), S.I. 1996/462, **reg. 12(1)**, S.I. 1997/65, reg. 8, S.I. 1997/2197, **reg. 7(6)(a)**, S.I. 2000/2545, reg. 2(1)(c), S.I. 2001/3767, **Schedule**, paragraph 9, S.I. 2002/3019, **reg. 29(3)**.
- M19** Schedule 3 was substituted by S.I. 1995/1613, **Schedule 1**.
- M20** Paragraph 21 was substituted by S.I. 1988/663, **reg. 35(d)**. Sub-paragraph (3) was added by S.I. 2000/636, **reg. 3(12)(c)**.
- M21** Paragraph 25(1)(a) was substituted by paragraph 9(a) of the Schedule to S.I. 1992/468 and amended by S.I. 2003/2279, **reg. 2(4)(a)(i)**.
- M22** 2002 c. 38.
- M23** Paragraph 25(1A) was inserted by S.I. 2003/2279, **reg. 2(4)(a)(ii)**.
- M24** Paragraph 68 was added by S.I. 2003/2279, **reg. 2(5)(d)**.

Amendment of the Jobseeker's Allowance Regulations

3.—(1) The Jobseeker's Allowance Regulations are amended as follows.

(2) In regulation 104(1) (capital treated as income) ^{M25}, omit “£8,000 or, in a case where regulation 107(aa) applies, £12,000 or, in a case where regulation 107(b) applies,”.

(3) In regulation 105 (notional income)—

(a) in paragraph (2)(g), after “personal pension scheme” insert “ or occupational pension scheme ”;

(b) before paragraph (3) insert—

“(2B) A claimant who has attained the age of 60 shall be treated as possessing—

(a) the amount of any income from an occupational pension scheme or personal pension scheme—

(i) for which no claim has been made, and

(ii) to which he might expect to be entitled if a claim for it were made;

(b) income from an occupational pension scheme which the claimant elected to defer,

but only from the date on which it could be expected to be acquired were an application for it to be made.”;

(c) in paragraph (3)—

(i) omit “, is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, and”;

(ii) for sub-paragraph (a) substitute—

“(a) is a person entitled to money purchase benefits under an occupational pension scheme, or under a personal pension scheme other than one referred to in sub-paragraph (b), and fails to purchase an annuity with the funds available in that scheme where—

(i) he defers, in whole or in part, the payment of any income which would have been payable to him by his pension fund holder,

- (ii) he fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or
- (iii) income withdrawal is not available to him under that scheme; or”;
- (iii) in sub-paragraph (b)—
 - (aa) for “in the case of” substitute “ is a party to, or a person deriving entitlement to a pension under, ”;
 - (bb) for “he” substitute “ and ”;
- (d) in paragraph (5), for “personal pension scheme been held under a personal pension scheme” substitute “ occupational or personal pension scheme been held under a scheme ”;
- (e) after paragraph (5) insert—
 - “(5A) In paragraph (3), “money purchase benefits” has the meaning it has in the Pension Schemes Act 1993.”;
- (f) at the end of paragraph (10) ^{M26}, after “any payment in kind” insert “ to the third party ”.
- (4) For regulation 107 (capital limit) ^{M27} substitute—

“Capital limit

107. For the purposes of section 13(1) and (2A) (no entitlement to an income-based jobseeker's allowance if capital exceeds a prescribed amount), the prescribed amount is £16,000.”.

- (5) In regulation 113 (notional capital), after paragraph (2)(d) insert—
 - “(da) an occupational pension scheme where the claimant is aged under 60; or”.
- (6) In regulation 116 (calculation of tariff income from capital) ^{M28}—
 - (a) in paragraph (1)—
 - (i) omit “(1ZA) or”;
 - (ii) for “£3,000” (in both places) substitute “ £6,000 ”, and
 - (iii) for “£8,000” substitute “ £16,000 ”;
 - (b) omit paragraph (1ZA);
 - (c) in paragraphs (2) and (3) omit “, (1ZA)”.
- (7) In Schedule 2 (housing costs), in paragraph 13(5)(a) and (c) for “£8,000” substitute “ £16,000 ”.
- (8) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—
 - (a) after paragraph 22(3) ^{M29} add—
 - “(4) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the claimant which is used by the third party to provide benefits in kind to the claimant.”;
 - (b) in paragraph 26(1)(a) ^{M30}, for “in accordance with regulations made pursuant to section 57A of the Adoption Act 1976 (permitted allowances) or paragraph 3 of Schedule 4 to the Adoption and Children Act 2002 or” substitute “ pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance ”;
 - (c) for paragraph 26(1A) substitute—

“(1A) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.”.

(9) In Schedule 8 (capital to be disregarded) ^{M31}, for paragraph 61 substitute—

“**61.** Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.”.

Marginal Citations

- M25** Regulation 104(1) was amended by S.I. 1997/65, **reg. 3(3)**, S.I. 1999/2860, Schedule 12, paragraph 5 and S.I. 2000/2545, **reg. 2(2)(a)**.
- M26** Paragraph 10 was amended by S.I. 1998/2117, **reg. 2(1)(a)**, S.I. 1999/2640, reg. 2(1)(b), S.I. 2000/1978, **Schedule 2**, paragraph 42, S.I. 2002/841, reg. 3(2), S.I. 2003/455, **Schedule 2**, paragraph 10(c) and (d), and S.I. 2005/574, **reg. 2(6)**.
- M27** Regulation 107 was substituted by S.I. 1996/1516, **reg. 11**, and amended by S.I. 2000/1978, **Schedule 2**, paragraph 43, and S.I. 2000/2545, **reg. 2(2)**.
- M28** Regulation 116 was amended by S.I. 1996/1516, **reg. 12**, S.I. 1997/65, reg. 8, S.I. 1997/2197, **reg. 7(6)(b)**, S.I. 2000/2545, and reg. 2(2)(c), and S.I. 2001/3767, **Schedule**, paragraph 12.
- M29** Paragraph 22(3) was added by S.I. 2000/636, **reg. 4(9)(c)**.
- M30** Paragraph 26(1)(a) was amended and paragraph 26(1A) was inserted by S.I. 2003/2279, **reg. 3(4)**.
- M31** Paragraph 61 was added by S.I. 2003/2279, **reg. 3(5)(d)**.

Amendment of the Council Tax Benefit Regulations

4.—(1) The Council Tax Benefit Regulations are amended as follows ^{M32}.

[^{F1}(2) In regulation 26(2)(c) (notional income), after “personal pension scheme” insert “, occupational pension scheme”.

(3) In regulation 34(2)(d) (notional capital) ^{M33}, after “personal pension scheme” insert “, occupational pension scheme”.

(4) For regulation 37(1) (calculation of tariff income from capital) ^{M34} substitute—

“(1) Where the claimant's capital calculated in accordance with this Part exceeds £6,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £6,000 but not exceeding £16,000.”].

(5) [^{F2}In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—

- (a) the existing provisions of paragraph 22 shall become sub-paragraph (1) of that paragraph;
(b) after that sub-paragraph insert—

“(2) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the claimant which is used by the third party to provide benefits in kind to the claimant.”;

- (c) in paragraph 24(1)(a) ^{M35}, for “in accordance with regulations made pursuant to section 57A of the Adoption Act 1976 (permitted allowances) or paragraph 3 of Schedule 4 to the Adoption and Children Act 2002 or” substitute “pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 ^{M36} or in accordance” ;

(d) for paragraph 24(1A) substitute—

“(1A) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.”].

(6) [^{F2}In Schedule 5 (capital to be disregarded), for paragraph 70 substitute—

“70. Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.”.]

- F1** Reg. 4(2)-(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. 2 para. 28(2)** (with regs. 2, 3, Sch. 3, 4)
- F2** Reg. 4(5) (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, 4)

Marginal Citations

- M32** Regulations 13 to 37 of the Council Tax Benefit Regulations are modified in relation to any person who has attained the qualifying age for state pension credit: *see* [S.I. 2003/325](#), **regs. 12(1)** and 17. However the amendments made by these Regulations are to regs. 26, 34 and 37 of the Council Tax Benefit Regulations as not so modified.
- M33** Paragraph 2(d) was inserted by [S.I. 1995/2303](#), **reg. 2(6)**.
- M34** Regulation 37(1) was amended by [S.I. 2000/2545](#), **reg. 2(3)**.
- M35** Paragraph 24(1)(a) was amended, and paragraph (1A) inserted, by [S.I. 2003/2279](#), **reg. 5(4)(a)**.
- M36** [2002 c. 38](#).

[^{F3}Amendment of the Council Tax Benefit Regulations 2006

4A.—(1) The Council Tax Benefit Regulations 2006 are amended as follows.

(2) In regulation 32(2)(c) (notional income), after “personal pension scheme” insert “, occupational pension scheme”.

(3) In regulation 39(2)(d) (notional capital), after “personal pension scheme” insert “, occupational pension scheme”.

(4) For regulation 42(1) (calculation of tariff income from capital) substitute—

“(1) Where the claimant's capital calculated in accordance with this Part exceeds £6,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £6,000 but not exceeding £16,000.”]

- F3** Reg. 4A inserted (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006 \(S.I. 2006/217\)](#), reg. 1(1), **Sch. 2 para. 28(3)** (with regs. 2, 3, Sch. 3, 4)

Amendment of the Housing Benefit Regulations

5.—(1) The Housing Benefit Regulations are amended as follows ^{M37}.

(2) [^{F4}In regulation 35(2)(c) (notional income), after “personal pension scheme” insert “, occupational pension scheme”.]

(3) [^{F4}In regulation 43(2)(d) (notional capital) ^{M38}, after “personal pension scheme” insert “, occupational pension scheme”.]

(4) [^{F4}In regulation 45 ^{M39} (calculation of tariff income from capital)—

- (a) in paragraph (1)—
 - (i) omit “(1ZA) or”, and
 - (ii) for “£3,000” (in both places) substitute “ £6,000 ”;
 - (b) omit paragraph (1ZA);
 - (c) in paragraphs (2) and (3) omit “, (1ZA)”.]
- (5) [^{F5}In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—
- (a) the existing provisions of paragraph 21 ^{M40} shall become sub-paragraph (1) of that paragraph;
 - (b) after that sub-paragraph insert—
 - “(2) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the claimant which is used by the third party to provide benefits in kind to the claimant.”;
 - (c) in paragraph 23(1)(a) ^{M41}, for “in accordance with regulations made pursuant to section 57A of the Adoption Act 1976 (permitted allowances) or paragraph 3 of Schedule 4 to the Adoption and Children Act 2002 or” substitute “ pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance ”;
 - (d) for paragraph 23(1A) ^{M42} substitute—
 - “(1A) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.”.]
- (6) [^{F5}In Schedule 5 (capital to be disregarded), for paragraph 70 ^{M43} substitute—

“70. Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.”.]

- F4** [Reg. 5\(2\)-\(4\)](#) revoked (6.3.2006) by [The Housing Benefit and Council Tax Benefit \(Consequential Provisions\) Regulations 2006](#) (S.I. 2006/217), reg. 1(1), **Sch. 2 para. 28(4)** (with regs. 2, 3, Sch. 3, 4)
- F5** [Reg. 5\(5\)\(6\)](#) 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, 4)

Marginal Citations

- M37** Regulations 21 to 45 of the Housing Benefit Regulations are modified in relation to any person who has attained the qualifying age for state pension credit: *see* S.I. 2003/325, **regs. 2(1)** and 8. However the amendments made by these Regulations are to regs. 35, 43 and 45 of the Housing Benefit Regulations as not so modified.
- M38** Paragraph (2)(d) was inserted by S.I. 1995/2303, **reg. 5(7)**.
- M39** Regulation 45 was amended by S.I. 1990/671, **reg. 4(2)**, S.I. 1996/462, reg. 12(2)(b) and S.I. 2000/2545, **reg. 2(4)**.
- M40** Paragraph 21 was amended by S.I. 2000/636, **reg. 6(6)**.
- M41** Paragraph 23(1)(a) was amended by S.I. 1992/432, **Schedule 1**, paragraph 3, and S.I. 2003/2279, **reg. 4(5)(a)(i)**.
- M42** Paragraph 23(1A) was inserted by S.I. 2003/2279, **reg. 4(5)(a)(ii)**.
- M43** Paragraph 70 was added by S.I. 2003/2279, **reg. 4(6)(e)**.

[^{F6}Amendment of the Housing Benefit Regulations 2006

5A.—(1) The Housing Benefit Regulations 2006 are amended as follows.

(2) In regulation 42(2)(c) (notional income), after “personal pension scheme” insert “, occupational pension scheme”.

(3) In regulation 49(2)(d) (notional capital), after “personal pension scheme” insert “, occupational pension scheme”.

(4) In regulation 52 (calculation of tariff income from capital)—

(a) in paragraph (1)—

(i) omit “(2) or”; and

(ii) for “£3,000” (in both places) substitute “ £6,000 ”;

(b) omit paragraph (2);

(c) in paragraphs (6) and (7), omit “, (2)”.]

F6 Reg. 5A inserted (6.3.2006) by *The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006* (S.I. 2006/217), reg. 1(1), **Sch. 2 para. 28(5)** (with regs. 2, 3, Sch. 3, 4)

Amendment of the State Pension Credit Regulations

6.—(1) The State Pension Credit Regulations are amended as follows.

(2) In regulation 1(2) (interpretation), after the definition of “benefit week” insert—
 ““board and lodging accommodation” means accommodation provided to a person or, if he is a member of a family, to him or any other member of his family, for a charge which is inclusive of—

(i) the provision of that accommodation, and

(ii) at least some cooked or prepared meals which both are cooked or prepared (by a person other than the person to whom the accommodation is provided or a member of his family) and are consumed in that accommodation or associated premises,

but not accommodation provided by a close relative of his or of his partner, or other than on a commercial basis;”.

(3) In regulation 15(5)(e) (income for the purposes of the Act), omit “, and for this purpose “board and lodging accommodation” has the same meaning as in paragraph 8(2) of Schedule IV”.

(4) In regulation 17B(2)(za) ^{M44} (earnings of self-employed earners), for “paragraph 8(2) of Schedule IV” substitute “ regulation 1(2) ”.

(5) In paragraph 8 of Schedule IV (amounts to be disregarded in the calculation of income other than earnings), omit sub-paragraph (2).

Marginal Citations

M44 Regulation 17B was inserted by *S.I. 2002/3019*, **reg. 23(i)**, and paragraph (2)(za) was inserted by *S.I. 2002/3197*, **reg. 3(2)(a)**.

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

Philip Hunt
Parliamentary Under-Secretary of State,
Department for Work and Pensions

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 Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814), the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) and the State Pension Credit Regulations 2002 (S.I. 2002/1792).

Regulations 2 to 5 amend the Income Support Regulations, the Jobseeker's Allowance Regulations, the Council Tax Benefit Regulations and the Housing Benefit Regulations so as to—

increase the lower capital limit of £3,000 to £6,000;

remove some of the provisions that provide different capital limits in special circumstances and to update references to capital limits in the regulations that deal with tariff income;

provide that a person aged under 60, who opts not to take an occupational pension available to him or her under early release, is not treated as possessing the amount of any income or capital deferred;

ensure that where money is paid to a third party on behalf of a claimant and is subsequently used by the third party to provide benefits in kind to the claimant, the money will not be disregarded;

change references in the Regulations to adopters in the income and capital disregards of financial support in order to take account of the commencement of the Adoption and Children Act 2002.

Regulations 2 and 3 also amend the Income Support Regulations and the Jobseeker's Allowance Regulations so as to—

provide that a person aged 60 or over, who opts not to take an occupational pension available to him or her, shall be treated as possessing the amount of any income foregone from the date on which it could be expected to be acquired were an application to be made;

make it clear, in the case of a claimant aged 60 or over, that income which could be obtained from money purchase benefits under an occupational pension scheme is treated in the same way as such income under a personal pension scheme.

Regulation 6 amends the State Pension Credit Regulations so as to—

insert a definition of “board and lodging accommodation” in the interpretation provision in regulation 1(2);

omit a cross-reference from regulation 15(5)(e);

substitute a new cross-reference in regulation 17B(2)(za);

omit sub-paragraph (2) from paragraph 8 of Schedule IV thereby removing a previous definition of “board and lodging accommodation”.

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 2005.