

**2005 No. 777**

**SOCIAL SECURITY**

**The Social Security (Claims and Payments) Amendment (No. 2)  
Regulations 2005**

<i>Made</i> - - - -	<i>16th March 2005</i>
<i>Laid before Parliament</i>	<i>21st March 2005</i>
<i>Coming into force</i> - -	<i>11th April 2005</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by paragraph 7A of Schedule 2 to the Abolition of Domestic Rates Etc. (Scotland) Act 1987(a), paragraph 6(2)(b) of Schedule 4 to the Local Government Finance Act 1988(b), sections 24(2)(c) and (d) and 30(1) of the Criminal Justice Act 1991(c), sections 5(1)(a) and (p), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(d) and sections 14(3), 113(1) and (2) and 116 of, and paragraphs 1 and 6(1) and (2)(b) of Schedule 4 to, the Local Government Finance Act 1992(e) and after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it(f), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Claims and Payments) Amendment (No. 2) Regulations 2005 and shall come into force on 11th April 2005.

(2) In these Regulations “the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(g).

**Amendment of regulation 19 of the Claims and Payments Regulations**

2. In regulation 19 of the Claims and Payments Regulations(h) (time for claiming benefit)—

(a) in paragraph (3)—

(i) for sub-paragraph (ga)(i) substitute—

“(ga) subject to paragraphs (3A) and (3B), bereavement benefit;”, and

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- (a) 1987 c. 47; paragraph 7A of Schedule 2 was inserted by the Local Government Finance Act 1988 (c. 41), Schedule 12, paragraph 36(10), was continued in force by S.I. 1993/1780 and was amended by the Jobseekers Act 1996 (c. 18), Schedule 2, paragraph 10 and the State Pension Credit Act 2002 (c. 16), Schedule 2, paragraph 27.
- (b) 1988 c. 41; paragraph 6 of Schedule 4 was continued in force by S.I. 1993/1780 and amended by the Jobseekers Act 1996, Schedule 2, paragraph 18 and the State Pension Credit Act 2002, Schedule 2, paragraph 29.
- (c) 1991 c. 53; section 24 was amended by the Jobseekers Act 1995, Schedule 2, paragraph 21(2) and the State Pension Credit Act 2002, Schedule 2, paragraph 31(a).
- (d) 1992 c. 5; section 191 is cited for the definition of “prescribe”.
- (e) 1992 c. 14; paragraph 6 of Schedule 4 was amended by the Jobseekers Act 1995, Schedule 2, paragraph 75 and the State Pension Credit Act 2002, Schedule 2, paragraphs 32 and 33; section 116 is cited for the definition of “prescribed”.
- (f) See Social Security Administration Act 1992, section 173(1)(b).
- (g) S.I. 1987/1968.
- (h) Regulations 19 was substituted by S.I. 1997/793.
- (i) Sub-paragraph (ga) was inserted by S.I. 2000/1483 and amended by S.I. 2002/2660.

- (ii) in sub-paragraph (h) (increases in respect of a child or adult dependant) omit “except in a case to which section 3(3) of the Social Security Administration Act 1992 applies (late claims for widowhood benefits where death is difficult to establish)”,
- (b) in paragraph (3A)(a), after “bereavement payment” insert “within the meaning of section 36 of the Contributions and Benefits Act”, and
- (c) after paragraph (3A) insert—
  - “(3B) The time prescribed for claiming a bereavement benefit in respect of the day on which the claimant’s spouse has died or may be presumed to have died where—
    - (a) less than 12 months have elapsed since the day of the death; and
    - (b) the circumstances are as specified in section 3(1)(b) of the Social Security Administration Act 1992(b) (death is difficult to establish),
 is that day and the period of 12 months immediately following that day if the other conditions of entitlement are satisfied.”.

### **Amendment of Schedule 9 to the Claims and Payments Regulations**

3.—(1) Schedule 9 to the Claims and Payments Regulations (deductions from benefit and direct payment to third parties) shall be amended in accordance with the following paragraphs of this regulation.

- (2) In paragraph 1(1) (interpretation)—
  - (a) in the definition of “housing costs”(c) omit “and feu duty” in paragraphs (a), (b) and (c),
  - (b) omit the definition of “income support”, and
  - (c) in the definition of “specified benefit”—
    - (i) for paragraph (a)(d) substitute—
      - “(a) income support or, where in respect of any period it is paid together with any incapacity benefit or severe disablement allowance—
        - (i) in a combined payment;
        - (ii) in part to the beneficiary and in part to another person in accordance with regulation 34; or
        - (iii) by means of two or more instruments of payment,
 income support and incapacity benefit or severe disablement allowance if the income support alone is insufficient for the purposes of this Schedule;”, and
    - (ii) for paragraph (d)(e) substitute—
      - “(d) state pension credit or, where in respect of any period it is paid together with any retirement pension, incapacity benefit or severe disablement allowance—
        - (i) in a combined payment;
        - (ii) in part to the beneficiary and in part to another person in accordance with regulation 34; or
        - (iii) by means of two or more instruments of payment,
 state pension credit and retirement pension, incapacity benefit or severe disablement allowance if the state pension credit alone is insufficient for the purposes of this Schedule;”.
- (3) In paragraph 4(2A)(a) (miscellaneous accommodation costs: amount in respect of personal expenses) for the amount “£18.10” in each place where it appears substitute the amount “£18.80”.

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(a) Paragraph (3A) was inserted by S.I. 2002/2660.

(b) Section 3 was substituted by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 8, paragraphs 15 and 17.

(c) The definition of “housing costs” was substituted by S.I. 1996/1460 and amended by S.I. 2002/3019.

(d) Paragraph (a) was substituted by S.I. 2002/2441.

(e) Paragraph (d) was inserted by S.I. 2002/3019.

(4) In paragraph 8(1)(b) (maximum amount of payments to third parties) for “regulation 7 of the Council Tax Regulations and regulation 6 of the Fines Regulations” substitute “regulation 5 of the Council Tax Regulations(c) and regulation 4 of the Fines Regulations(d)”.

(5) In paragraph 9(e) (priority as between certain debts)—

(a) in sub-paragraph (1A)(b) for—

“regulation 2 of the Community Charges Regulations, regulation 2 of the Community Charges (Scotland) Regulations, regulation 6 of the Fines Regulations and regulation 7 of the Council Tax Regulations”

substitute—

“regulation 3 of the Community Charges Regulations(f), regulation 3 of the Community Charges (Scotland) Regulations(g), regulation 4 of the Fines Regulations and regulation 5 of the Council Tax Regulations”,

(b) in sub-paragraph (1B)(e) for—

“regulation 2 of the Community Charges Regulations (deductions from income support), regulation 2 of the Community Charges (Scotland) Regulations (deductions from income support) or any liability mentioned in regulation 7 of the Council Tax Regulations (deductions from debtor’s income support)”

substitute—

“regulation 3 of the Community Charges Regulations (deductions from income support etc.), regulation 3 of the Community Charges (Scotland) Regulations (deductions from income support etc.) or any liability mentioned in regulation 5 of the Council Tax Regulations (deductions from debtor’s income support etc.)”, and

(c) in sub-paragraph (1B)(f) for “regulation 6 of the Fines Regulations (deductions from offenders income support)” substitute “regulation 4 of the Fines Regulations (deductions from offender’s income support etc.)”.

#### **Amendment of Schedule 9A to the Claims and Payments Regulations**

4. In Schedule 9A to the Claims and Payments Regulations(h) (deductions of mortgage interest from benefit and payment to qualifying lenders), in paragraph 1 (interpretation), in the definition of “relevant benefits”—

(a) for paragraph (a)(i) substitute—

“(a) income support, or income support and any incapacity benefit or severe disablement allowance where—

(i) either benefit is paid with income support in a combined payment in respect of any period; and

(ii) the income support alone is insufficient for the purpose of this Schedule;”, and

(b) for paragraph (d)(j) substitute—

“(d) state pension credit, or state pension credit and any retirement pension, incapacity benefit or severe disablement allowance where—

(i) one of those benefits is paid with state pension credit in a combined payment in respect of any period; and

(ii) the state pension credit alone is insufficient for the purpose of this Schedule;”.

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(a) Sub-paragraph (2A) was inserted by S.I. 2003/2325 and amended by S.I. 2004/576.

(b) Relevant amendments to paragraph 8(1) were made by S.I. 1993/495 and 1994/2319.

(c) Regulation 5 was substituted by S.I. 1999/3178 (C. 81) and amended by S.I. 2002/3019.

(d) Regulation 4 was substituted by S.I. 1999/3178 and amended by S.I. 2002/3019 and 2004/2889.

(e) Paragraph 9 was substituted by S.I. 1993/495 and amended by S.I. 2002/3019.

(f) Regulation 3 was substituted by S.I. 1999/3178 and amended by S.I. 2002/3019.

(g) Regulation 3 was substituted by S.I. 1999/3178 and amended by S.I. 2002/3019.

(h) Schedule 9A was inserted by S.I. 1992/1026.

(i) Paragraph (a) was substituted by S.I. 2004/2441.

(j) Paragraph (d) was inserted by S.I. 2002/3019.

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

16 March 2005

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

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Claims and Payments) Regulations 1987 (“the 1987 Regulations”) in respect of the time for claiming benefit and deductions from benefit for payment to other persons.

Regulation 2 prescribes an extended time for claiming a bereavement benefit where death is difficult to establish and omits a related provision in the 1987 Regulations which is obsolete.

Regulation 3 amends provisions in Schedule 9 of the 1987 Regulations (deductions from benefits and direct payment to third parties):

- paragraphs (2)(a) and (b), (4) and (5) update references to other legislation which has been amended;
- paragraph (2)(c) amends the definition of “specified benefit” to provide for deductions from payments of non means-tested benefits which are combined with payments of a means-tested benefit when the latter benefit alone is insufficient for the purposes of the Schedule;
- paragraph (3) increases the amount allowed for personal expenses for a person in accommodation for which benefit is paid to his accommodation provider.

Regulation 4 makes amendments to the definition of “relevant benefit” in Schedule 9A of the 1987 Regulations (deductions of mortgage interest from benefit and payment to qualifying lenders) which are similar to the amendments made by regulation 3(2)(c).

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

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