

2006 No. 2378

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) (No. 4)
Regulations 2006**

Made - - - - - *4th September 2006*

Laid before Parliament *8th September 2006*

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by—

– sections 30A(2A), 30C(4), 30E(1), 47(6), 64(1), 68(4), 71(6), 86A(1), 122(1), 123(1)(a), (d) and (e), 124(1)(e), 135(1), 136(3) and (5)(b) and (c), 136A(3), 137(1) and (2)(h) and (l), 171D, 171G(2) and 175(1) and (3) to (5) of, and paragraph 2(3) of Schedule 7 to, the Social Security Contributions and Benefits Act 1992(a),

– sections 5(1)(l) and (p) and 189(1), (4) and (5) of the Social Security Administration Act 1992(b),

– section 4 of the Social Security (Incapacity for Work) Act 1994(c),

– sections 4(5), 7(2)(a), 12(2) and (4)(b) and (c), 35(1) and 36(1), (2) and (4) of, and paragraphs 1(2)(b), 12, 16(1)(a) and (b) of Schedule 1 to, the Jobseekers Act 1995(d),

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- (a) 1992 c.4. Sections 30A, 30C, 30E, 86A, 171D and 171G were inserted by sections 1(1), 2(5), 3(1) and 6(1) of the Social Security (Incapacity for Work) Act 1994 (c.18). Section 30A(2A) was inserted by section 64(3) of the Welfare Reform and Pensions Act 1999 (c.30). Section 68 ceased to have effect when section 65 of the Welfare Reform and Pensions Act 1999 came into force on 6th April 2001 by virtue of article 2(3)(d) of the Welfare Reform and Pensions Act 1999 (Commencement No.9, and Transitional and Savings Provisions) Order 1999 (S.I. 2000/2958). Article 4 of S.I. 2000/2958 made savings in relation to section 68 for all those who were entitled to severe disablement allowance for days immediately before 6th April 2001 (which is the day severe disablement allowance is abolished) and would have continued to be entitled to it on that and subsequent days if the benefit had not been abolished. Section 123(1)(e) was substituted by paragraph 1(1) of Schedule 9 to the Local Government Finance Act 1992 (c.14). Sections 122(1), 137(1) and 171G(2) are cited because of the meaning given to the word “prescribed”. Section 124(1)(e) was inserted by paragraph 30(5) of Schedule 2 to the Jobseekers Act 1995 (c.18). Section 136A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act 2002 (c.16). Section 175(1) and (4) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). Section 175(1) and (2) to (5) is applied to provisions of the State Pension Credit Act 2002 by section 19(1) of that Act.
- (b) 1992 c.5. Section 189(1), (4) and (5) was amended by paragraph 109 of Schedule 7 to the Social Security Act 1998 (c.14). Section 189(1) was also amended by paragraph 57 of Schedule 3 to the Social Security (Transfer of Functions, etc.) Act 1999 and Schedule 6 to the Tax Credits Act 2002 (c.21).
- (c) 1994 c.18.
- (d) 1995 c.18. Section 35(1) is cited because of the meaning given to the word “prescribed”. Section 35(1) was amended by section 2 of, and paragraph 62 of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

– paragraphs 4(6) and 20(1) and (3) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(a), and

– sections 1(5)(a), 2(3)(b), 7(4), 15(6)(a) and (b), 17(1) and (2)(a) and 19(1) of the State Pension Credit Act 2002(b).

The Social Security Advisory Committee and the Industrial Injuries Advisory Council have agreed that the proposals in respect of these Regulations should not be referred to them(c).

In respect of the provisions in these Regulations relating to housing benefit and council tax benefit, the Secretary of State has consulted with such organisations which appear to him to be representative of the authorities concerned(d).

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 4) Regulations 2006.

(2) Subject to the following provisions of this regulation, these Regulations shall come into force on 1st October 2006.

(3) Regulations 5(1), (2), (3), (8), (9) and (10)(c), 6, 13(1), (2), (3), (4), (5), (8), (9), (11) and (12)(c), 14, 15(1), (4) and (6), 16(1), (2) and (3), 17(1) and (5) and 18(1), (2) and (3) shall come into force on 2nd October 2006.

(4) Regulations 5(4), (5), (10)(a), (b), (d) and (e) and (11), 13(6), (7), (12)(a), (b), (d) and (e) and (13), 15(2), (3) and (7), 16(4), 17(2), (3) and (6) and 18(4) in so far as they relate to a particular beneficiary shall come into force on the first day of the first benefit week to commence for that beneficiary on or after 2nd October 2006.

(5) In paragraph (4) the term “benefit week” has the same meaning as in—

- (a) regulation 2(1) of the Income Support (General) Regulations 1987(e) so far as it relates to regulation 5;
- (b) regulation 1(3) of the Jobseeker’s Allowance Regulations 1996(f) so far as it relates to regulation 13;
- (c) regulation 2(1) of the Housing Benefit Regulations 2006(g) so far as it relates to regulation 15;
- (d) regulation 2(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(h) so far as it relates to regulation 16;
- (e) regulation 2(1) of the Council Tax Benefit Regulations 2006(i) so far as it relates to regulation 17; and
- (f) regulation 2(1) of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(j) so far as it relates to regulation 18.

(6) Regulation 5(6) shall come into force on 7th October 2006.

(a) 2000 c.19.

(b) 2002 c.16. Section 17(1) is cited because of the meaning given to the word “prescribed”.

(c) See sections 170, 171, 172(1) and (2) 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 added those Acts to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee.

(d) See section 176(1) of the Social Security Administration Act 1992 (c.5) which was amended by section 103 of and paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c.14).

(e) S.I. 1987/1967.

(f) S.I. 1996/207.

(g) S.I. 2006/213.

(h) S.I. 2006/214.

(i) S.I. 2006/215.

(j) S.I.2006/216.

(7) Regulations 2, 5(7), 10(2), 11, 12(3) and (5), 13(10), 15(5) and 17(4) shall come into force on 9th October 2006.

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979

2. In regulation 3A of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979(a) (calculating periods of incapacity for work for welfare to work beneficiaries entitled to an increase of long-term incapacity benefit) for "52 weeks" substitute "104 weeks".

Amendment of the Social Security (General Benefit) Regulations 1982

3. In regulation 16 of the Social Security (General Benefit) Regulations 1982 (b) (earnings level for the purpose of unemployability supplement) for "£4,212" substitute "£4,472".

Amendment of the Social Security (Severe Disablement Allowance) Regulations 1984

4. In regulation 3 of the Social Security (Severe Disablement Allowance) Regulations 1984(c) (conditions relating to residence and presence) omit paragraph (1)(b), the word "and" immediately preceding that paragraph and paragraph (1A).

Amendment of the Income Support (General) Regulations 1987

5.—(1) The Income Support (General) Regulations 1987 are amended as follows.

(2) In regulation 16(3)(a)(circumstances in which a person is to be treated as being or not being a member of the same household) for "special hospitals" substitute "high security psychiatric services".

(3) In regulation 35(1)(j)(earnings of employed earners)(d) for "regulation 18(22) to (25) of the Social Security (Contributions) Regulations 1979(e)" substitute "Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001(f)".

(4) In regulation 48(4) (income treated as capital)(g) for "or 25 to 28" substitute " , 25 to 28, 44 or 45".

(5) In regulation 65 (relationship with amounts to be disregarded under Schedule 9)(h), omit from "and any other income" to the end of the regulation.

(6) Omit paragraph 16 of Schedule 1B (certain persons aged 50 who have not been in remunerative work for 10 years)(i).

(7) In—

(a) paragraphs 10(4) and 12(1A) of Schedule 2 (applicable amounts)(j), and

(b) paragraphs 7(10) and 14(3AA)(b) and (10) of Schedule 3 (housing costs)(k)

for "52 weeks" in each place that it appears substitute "104 weeks".

(8) In Schedule 3 (housing costs)(l)—

(a) S.I. 1979/642. Regulation 3A was inserted by regulation 7 of S.I. 1998/2231.

(b) S.I. 1982/1408. The amount in regulation 16 was most recently amended by S.I. 2005/2446.

(c) S.I. 1984/1303. Relevant amending instruments are S.I. 1992/704 and 2000/636.

(d) Paragraph (1)(j) was inserted by S.I. 1999/1509.

(e) S.I. 1979/591.

(f) S.I. 2001/1004.

(g) Relevant amending instrument is S.I. 1988/2022.

(h) Regulation 65 was amended by S.I. 1990/547 and 1996/462.

(i) Schedule 1B was inserted by S.I. 1996/206.

(j) Paragraphs 10(4) and 12(1A) were inserted by S.I. 1998/2231.

(k) Paragraphs 7(10) and 14(10) were inserted by S.I. 1998/2231. Paragraph 14(10) was amended by S.I. 2001/488. Paragraph 14(3AA) was inserted by S.I. 1999/1921.

(l) Schedule 3 was substituted by S.I. 1995/1613.

- (a) at the end of paragraph 1(3)(b) (housing costs)(a), insert—
- “; or
- (c) who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002(b).”;
- (b) for paragraph 3(7)(c)(ii) (circumstances in which a person is to be treated as occupying a dwelling as his home), substitute—
- “(ii) the move was delayed pending the outcome of an application under Part 8 of the Contributions and Benefits Act for a social fund payment to meet a need arising out of the move or in connection with setting up the home in the dwelling, and—
- (aa) a member of the claimant’s family is aged five or under,
- (bb) the claimant’s applicable amount includes a premium under paragraph 9, 9A, 10, 11, 13 or 14 of Schedule 2 (applicable amounts), or
- (cc) a child tax credit is paid for a member of the claimant’s family who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002; or”;
- (c) in paragraph 7 (transitional protection), after sub-paragraph (4) insert—
- “(4A) For the purposes of sub-paragraphs (3) and (4), there is an increase in the amount of existing housing costs where in any benefit week, those costs are higher than they were in the previous benefit week (whether or not those costs are higher than they were in the second benefit week).”;
- (d) in paragraph 17(1)(a) (other housing costs), omit “and, in Scotland, payments by way of feu duty”.
- (9) In paragraphs 7(1)(d) and 15A(a) of Schedule 8 (sums to be disregarded in the calculation of earnings)(c) for “Schedule 3 to the Social Security (Contributions) Regulations 1979” in each place that it appears substitute “Schedule 6 to the Social Security (Contributions) Regulations 2001”.
- (10) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 15(d)—
- (i) for sub-paragraph (1) substitute—
- “(1) Subject to sub-paragraph (3) and paragraph 39, any relevant payment made or due to be made at regular intervals.”;
- (ii) in sub-paragraph (3), for “Sub-paragraphs (1) and (2)” substitute “Sub-paragraph (1)”;
- (iii) omit sub-paragraphs (2), (4) and (5);
- (b) omit paragraph 15A(e);
- (c) in paragraph 26 for the words from “care authority” to the end of the paragraph substitute “local authority under regulation 9 of the Fostering of Children (Scotland) Regulations 1996 (payment of allowances)(f)”;
- (d) in paragraph 30A(g) omit “but not a payment to which paragraph 15A applies”;
- (e) in paragraph 36(h), for “paragraphs 15(1) and 16” substitute “paragraph 16”.

(a) Paragraph 1(3) was amended by S.I. 1995/2927.
 (b) 2002 c.21.
 (c) Paragraph 15A was inserted by S.I. 1996/1944.
 (d) Relevant amending instruments are S.I. 1990/547, 1990/1776, 1991/1559, 1993/2119, 1994/527, 1996/462, 2001/3767, 2002/2442, 2004/2308 and 2005/574.
 (e) Relevant amending instruments are S.I. 1993/518, 1995/516, 2001/3767, 2005/2078 and 2005/2687.
 (f) S.I. 1996/3263 (S.253).
 (g) Paragraph 30A was inserted by S.I. 1993/2119 and amended by S.I. 2005/2687.
 (h) Relevant amending instruments are S.I. 1990/547, 1990/1657, 1996/462 and 2000/1922.

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

- (a) in paragraph 12(a), after “claimant” insert “or the claimant’s partner”;
- (b) after paragraph 12 insert—

“**12A.**—(1) Any payment made to the claimant or the claimant’s partner in consequence of any personal injury to the claimant or, as the case may be, the claimant’s partner.

(2) But sub-paragraph (1)—

- (a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in consequence of that personal injury;
- (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
- (c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;
- (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).”;

(c) for paragraph 44(b) substitute—

“**44.**—(1) Any sum of capital to which sub-paragraph (2) applies and—

- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
- (b) which can only be disposed of by order or direction of any such court; or
- (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

- (a) an award of damages for a personal injury to that person; or
- (b) compensation for the death of one or both parents where the person concerned is under the age of 18.”.

Amendment of the Social Security (Claims and Payments) Regulations 1987

6. For paragraph 8(c) of Schedule 9A (deductions of mortgage interest from benefit and payment to qualifying lenders) to the Social Security (Claims and Payments) Regulations 1987(c), substitute—

“(c) Communities Scotland;”.

Amendment of the Social Security (Attendance Allowance) Regulations 1991

7. In regulation 2 of the Social Security (Attendance Allowance) Regulations 1991(d) (conditions as to residence and presence in Great Britain) omit paragraph (1)(b), the word “and” immediately preceding that paragraph and paragraph (4).

(a) Paragraph 12 was substituted by S.I. 1990/1776.

(b) Relevant amending instruments are S.I. 1994/2139, 1997/2197 and 2003/2279.

(c) S.I. 1987/1968. Schedule 9A was inserted by S.I. 1992/1026 and was revoked in part by S.I. 2003/492.

(d) S.I.1991/2740. Regulation 2(1) was amended by S.I. 2000/636.

Amendment of the Social Security (Disability Living Allowance) Regulations 1991

8. In regulation 2 of the Social Security (Disability Living Allowance) Regulations 1991(a) (conditions as to residence and presence in Great Britain) omit paragraph (1)(b), the word “and” immediately preceding that paragraph and paragraph (3).

Amendment of the Social Security (Incapacity Benefit – Increases for Dependants) Regulations 1994

9. In regulation 9 of the Social Security (Incapacity Benefit – Increases for Dependants) Regulations 1994(b) (increase of incapacity benefit for adult dependants and persons having the care of children or qualifying young persons) after paragraph (2A) insert—

“(2B) For the purposes of paragraph (1)(c) a beneficiary shall be treated as if he were entitled to child benefit in respect of a child or qualifying young person for any period throughout which—

- (a) child benefit has been awarded to a parent of that child or qualifying young person with whom that child or qualifying young person is living and with whom the beneficiary is residing and either—
 - (i) the child or qualifying young person is being wholly or mainly maintained by the beneficiary; or
 - (ii) the beneficiary is also a parent of the child or qualifying young person; or
- (b) (i) the beneficiary;
- (ii) his spouse or civil partner with whom he is residing; or
- (iii) a parent (other than the beneficiary) to whom sub-paragraph (a) would refer if that parent were entitled to child benefit,

would have been entitled to child benefit in respect of that child had the child been born at the end of the week immediately preceding the week in which the birth occurred.

(2C) Where for any period a person who is in Great Britain could have been entitled to an increase of incapacity benefit pursuant to paragraph (1)(c) but for the fact that in pursuance of any agreement with the government of a country outside the United Kingdom—

- (a) he;
- (b) his spouse or civil partner who is residing with him; or
- (c) a parent (other than the beneficiary) to whom paragraph (2B)(a) would refer if that parent were entitled to child benefit,

is entitled in respect of the child or qualifying young person in question to the family benefits of that country and is not entitled to child benefit, he shall for the purposes of entitlement to the increase be treated as if he were entitled to child benefit for the period in question.

(2D) For the purposes of paragraphs (2B) and (2C)—

- (a) “week” means a period of 7 days beginning with a Monday; and
- (b) a child or qualifying young person shall not be regarded as living with a person unless he can be so regarded for the purposes of section 143 (meaning of “person responsible for child or qualifying young person”).”.

(a) S.I.1991/2890. Regulation 2(1) was amended by S.I. 1993/1939, 1996/30 and 2000/636.

(b) S.I. 1994/2945. Regulation 9 was amended by S.I. 2000/678, 2003/937, 2005/2877 and 2006/692.

Amendment of the Social Security (Incapacity Benefit) Regulations 1994

10.—(1) The Social Security (Incapacity Benefit) Regulations 1994(a) are amended as follows.

(2) In regulation 5A (calculating periods of incapacity for work for welfare to work beneficiaries) for “52 weeks” substitute “104 weeks”.

(3) In regulation 8 (limit of earnings from councillor’s allowance) for “£81.00” substitute “£86.00”.

(4) Omit paragraphs (2) and (3) of regulation 16 (conditions relating to residence or presence).

Amendment of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995

11.—(1) The Social Security (Incapacity Benefit) (Transitional) Regulations 1995(b) are amended as follows.

(2) In regulation 17B (calculating periods of incapacity for work for welfare to work beneficiaries in long-term incapacity benefit transitional cases) for “52 weeks” substitute “104 weeks”.

(3) In regulation 23(2) (increase of Category A retirement pension for incapacity) for “52 weeks” substitute “104 weeks”.

Amendment of the Social Security (Incapacity for Work) (General) Regulations 1995

12.—(1) The Social Security (Incapacity for Work) (General) Regulations 1995(c) are amended in accordance with paragraphs (2) to (4).

(2) For regulation 11 (person with an infectious or contagious disease) substitute—

“**11.**—(1) A person shall be treated as incapable of work on any day in respect of which he is—

- (a) excluded or abstains from work pursuant to a request or notice in writing lawfully made under an enactment; or
- (b) otherwise prevented from working pursuant to an enactment,

by reason of his being a carrier, or having been in contact with a case, of a relevant disease.

(2) For the purposes of paragraph (1)—

“enactment” means an enactment comprised in, or in an instrument made under—

- (a) an Act; or
- (b) an Act of the Scottish Parliament; and

“relevant disease” means—

- (a) in England and Wales, any disease, food poisoning, infection, infectious disease or notifiable disease—
 - (i) to which section 20(1) of the Public Health (Control of Disease) Act 1984(d) (stopping of work to prevent spread of disease) applies; or
 - (ii) to which—
 - (aa) regulation 3 (public health enactments applied to certain diseases) of, and Schedule 1 to,
 - (bb) regulation 9(1) (provisions for preventing the spread of typhus and relapsing fever) of, and Schedule 3 to, or

(a) S.I. 1994/2946. Regulation 5A was inserted by S.I. 1998/2231. The amount in regulation 8 was most recently amended by S.I. 2005/2446. Paragraphs (2) and (3) of regulation 16 were inserted by S.I. 2000/3120.

(b) S.I. 1995/310. Regulations 17B and 23 were inserted by S.I. 1998/2231.

(c) S.I. 1995/311. Regulation 13A was inserted by regulation 4 of S.I. 1998/2231 and amended by S.I. 1999/3109 and 2006/757. Regulation 17 was substituted by S.I. 2006/757.

(d) 1984 c.22; section 20 was amended by section 59 of, and Schedule 3 to, the Food Safety Act 1990 (c.16).

- (cc) regulation 9(2) (provisions for preventing the spread of food poisoning and food borne infections) of, and Schedule 4 to, the Public Health (Infectious Diseases) Regulations 1988(a) apply; or
- (iii) to which regulations 8 and 9 (examination, etc. of the persons on aircraft and powers in respect of persons leaving aircraft) of the Public Health (Aircraft) Regulations 1979(b) apply; or
- (iv) to which regulations 9 and 10 (examination, etc. of the persons on ships and powers in respect of certain persons on ships) of the Public Health (Ships) Regulations 1979(c) apply; and
- (b) in Scotland, any food poisoning or infectious disease—
 - (i) to which section 71(1) of the Health Services and Public Health Act 1968(d) (compensation for stopping employment to prevent spread of disease in Scotland) applies;
 - (ii) to which—
 - (aa) regulations 8 and 9 (examination, etc. of persons on aircraft and powers in respect of persons leaving aircraft) of the Public Health (Aircraft) (Scotland) Regulations 1971(e); or
 - (bb) regulations 9 and 10 (examination, etc. of persons on ships and powers in respect of persons on ships) of the Public Health (Ships) (Scotland) Regulations 1971(f), apply.”.
- (3) In regulation 13A (welfare to work beneficiary)—
 - (a) at the end of paragraph (1)(b) insert “and”;
 - (b) in paragraph (1)(c) for “one week” substitute “one month”;
 - (c) omit paragraph (1)(d) and the word “and” immediately preceding it;
 - (d) for paragraph (3) substitute—

“(3) A person is not a welfare to work beneficiary under paragraph (1) if his immediate past period of incapacity for work was ended by a determination, other than a determination in the circumstances set out in paragraph (1) or (3A), that he was, or was treated as, capable of work.”;
 - (e) after paragraph (3) insert—

“(3A) The circumstances are that the person had successfully appealed against a determination made in respect of the personal capability assessment or the own occupation test in relation to his immediate past period of incapacity for work.”; and
 - (f) in paragraph (4)—
 - (i) in the definition of “linking term” for “52 weeks” substitute “104 weeks”; and
 - (ii) in the definition of “immediate past period of incapacity for work” after “means” insert “the most recent of”.
- (4) In regulation 17(3) and (4) (exempt work) for “£81.00” substitute “£86.00”.
- (5) In determining whether a person is a welfare to work beneficiary in accordance with regulation 13A of the Social Security (Incapacity for Work) (General) Regulations 1995 as amended by paragraph (3), it shall be immaterial whether that person’s immediate past period of incapacity for work ended before or after the coming into force of that paragraph.

(a) S.I. 1988/1546.

(b) S.I. 1979/1434.

(c) S.I. 1979/1435.

(d) 1968 c.46; section 71 was amended by section 64 of, and Schedule 6 to, the National Health Service (Scotland) Act 1972 (c.58) and section 180 of, and Schedule 14 to, the Local Government etc. (Scotland) Act 1994 (c.39).

(e) S.I. 1971/131.

(f) S.I. 1971/132.

Amendment of the Jobseeker's Allowance Regulations 1996

13.—(1) The Jobseeker's Allowance Regulations 1996 are amended as follows.

(2) In regulation 1(3) (citation, commencement and interpretation)(a), in the definition of “benefit week”, after “regulation 23” in each place that it appears insert “or regulation 23A”.

(3) In—

- (a) regulation 18(3)(f)(v) (steps to be taken by persons actively seeking employment),
- (b) regulation 53(d)(iv) (persons treated as not engaged in remunerative work),
- (c) paragraphs 9(d) and 19(a) of Schedule 6 (sums to be disregarded in the calculation of earnings), and
- (d) paragraph 5(a) of Schedule 6A(b) (sums to be disregarded in the calculation of earnings of members of joint-claim couples)

for “Schedule 3 to the Social Security (Contributions) Regulations 1979” in each place that it appears substitute “Schedule 6 to the Social Security (Contributions) Regulations 2001”.

(4) In regulation 78(3)(a) (circumstances in which a person is to be treated as being or not being a member of the household) for “special hospitals” substitute “high security psychiatric services”.

(5) In regulation 98(1)(h) (earnings of employed earners)(c) for “regulation 18(22) to (25) of the Social Security (Contributions) Regulations 1979” substitute “Part 5 of Schedule 3 to the Social Security (Contributions) Regulations 2001”.

(6) In regulation 110(4) (income treated as capital) for “or 17” substitute “, 17, 42 or 43”.

(7) In regulation 134 (relationship with amounts to be disregarded under Schedule 7), omit the words “and any other income” to the end of the regulation.

(8) In the definition of “special Class 2 contributions” in regulation 158(3) (modifications of section 2) for “regulation 98(c) of the Social Security (Contributions) Regulations 1979” substitute “regulation 125(c) of the Social Security (Contributions) Regulations 2001”.

(9) In regulation 167 (modification of contribution conditions for volunteer development workers) for “Case G of Part 8 of the Social Security (Contributions) Regulations 1979 (volunteer development workers)” substitute “Case G of Part 9 of the Social Security (Contributions) Regulations 2001”.

(10) In—

- (a) paragraphs 12(3), 20F(3) and 20H(2) of Schedule 1 (applicable amounts)(d), and
- (b) paragraphs 13(4A)(b) and (12) of Schedule 2 (housing costs)(e)

for “52 weeks” in each place that it appears substitute “104 weeks”.

(11) In Schedule 2 (housing costs)—

- (a) at the end of paragraph 1(3)(c) (housing costs)(f), insert—

“; or

- (d) who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002.”;

- (b) for paragraph 3(7)(c)(ii) (circumstances in which a person is to be treated as occupying a dwelling as his home), substitute—

“(ii) the move was delayed pending the outcome of an application under Part 8 of the Benefits Act for a social fund payment to meet a need arising out of the move or in connection with setting up the home in the dwelling, and—

(a) Relevant amending instruments are S.I. 1996/1517 and 1996/2538.

(b) Schedule 6A was inserted by S.I. 2000/1978.

(c) Regulation 98(1)(h) was inserted by S.I. 1999/1509.

(d) Paragraph 12(3) was inserted by S.I. 1998/2231. Paragraphs 20F and 20H were inserted by S.I. 2000/1978.

(e) Paragraph 13(4A) was inserted by S.I. 1999/1921. Paragraph 13(12) was substituted by S.I. 1998/2231 and amended by S.I. 2001/488.

(f) Paragraph 1(3) was amended by S.I. 1996/1516.

- (aa) a member of the claimant’s family is aged five or under,
 - (bb) the claimant’s applicable amount includes a premium under paragraph 10, 11, 12, 13, 15 or 16 of Schedule 1 (applicable amounts), or
 - (cc) a child tax credit is paid for a member of the claimant’s family who is disabled or severely disabled for the purposes of section 9(6) (maximum rate) of the Tax Credits Act 2002; or”;
- (c) in paragraph 16(1)(a) (other housing costs), omit “and, in Scotland, payments by way of feu duty”.
- (12) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 15(a)—
 - (i) for sub-paragraph (1) substitute—

“(1) Subject to sub-paragraph (3) and paragraph 41, any relevant payment made or due to be made at regular intervals.”;
 - (ii) in sub-paragraph (3), for “Sub-paragraphs (1) and (2)” substitute “Sub-paragraph (1)”;
 - (iii) omit sub-paragraphs (2), (4) and (5);
 - (b) omit paragraph 16(b);
 - (c) in paragraph 27 for the words from “care authority” to the end of the paragraph substitute “local authority under regulation 9 of the Fostering of Children (Scotland) Regulations 1996 (payment of allowances)”;
 - (d) in paragraph 32(1)(c) omit “but not a payment to which paragraph 16 applies”;
 - (e) in paragraph 38(d), for “paragraphs 15(1) and 17” substitute “paragraph 17”.
- (13) In Schedule 8 (capital to be disregarded)—
- (a) in paragraph 17, after “claimant” insert “or the claimant’s partner”;
 - (b) after paragraph 17 insert—

“**17A.**—(1) Any payment made to the claimant or the claimant’s partner in consequence of any personal injury to the claimant or, as the case may be, the claimant’s partner.

(2) But sub-paragraph (1)—

 - (a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in consequence of that personal injury;
 - (b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);
 - (c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;
 - (d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).”;
 - (c) for paragraph 42(e) substitute—

(a) Relevant amending instruments are S.I. 2001/3767, 2002/2442 and 2004/2308.
 (b) Relevant amending instruments are S.I. 2001/3767, 2005/2078 and 2005/2687.
 (c) Paragraph 32 was amended by S.I. 2005/2687.
 (d) Relevant amending instruments are S.I. 1997/454 and 2000/1922.
 (e) Relevant amending instruments are S.I. 1997/2197 and 2003/2279.

- “42.—(1) Any sum of capital to which sub-paragraph (2) applies and—
- (a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;
 - (b) which can only be disposed of by order or direction of any such court; or
 - (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.
- (2) This sub-paragraph applies to a sum of capital which is derived from—
- (a) an award of damages for a personal injury to that person; or
 - (b) compensation for the death of one or both parents where the person concerned is under the age of 18.”.

Amendment of the State Pension Credit Regulations 2002

- 14.—(1) The State Pension Credit Regulations 2002(a) are amended as follows.
- (2) In regulation 5 (persons treated as being or not being members of the same household)—
- (a) in paragraph (1), omit sub-paragraph (e)(b);
 - (b) after paragraph (1) insert—

“(1A) Paragraph (1)(d) and (f) shall not apply where a person is treated as being in Great Britain in accordance with regulation 4.”.
- (3) In regulation 10 (assessed income period), omit paragraph (8).
- (4) In regulation 18 (notional income)—
- (a) for paragraph (1) substitute—

“(1) A claimant who has attained the qualifying age shall be treated as possessing the amount of any retirement pension income—

 - (a) to which section 16(1)(a) to (e) applies,
 - (b) for which no claim has been made, and
 - (c) to which the claimant might expect to be entitled if a claim for it were made,

but only from the date on which that income could be expected to be acquired if a claim for it were made.

(1A) Paragraph (1) is subject to paragraphs (1B) and (1C).

(1B) Where a claimant—

 - (a) has deferred entitlement to retirement pension income to which section 16(1)(a) to (c) applies for at least 12 months, and
 - (b) would have been entitled to make an election under Schedule 5 or 5A(c) to the 1992 Act or under Schedule 1 to the Graduated Retirement Benefit Regulations,

he shall be treated for the purposes of paragraph (1) as possessing the amount of retirement pension income to which he might expect to be entitled if he were to elect to receive a lump sum.

(1C) Where a claimant receives an allowance under—

 - (a) section 68(d) of the 1992 Act (severe disablement allowance), or
 - (b) section 70(e) of that Act (carer’s allowance),

(a) S.I. 2002/1792.
 (b) Sub-paragraph (e) was inserted by S.I. 2002/3019.
 (c) Schedule 5A was inserted by Schedule 11 to the Pensions Act 2004 (c.35).
 (d) Section 68 was repealed by section 65 and Part 4 of Schedule 13 to the Welfare Reform and Pensions Act 1999 (c.30), but subject to the savings provided for in S.I. 2000/2958 (C.89).
 (e) Section 70 was amended by S.I. 1994/2556

the amount of that allowance is to be deducted from the amount of retirement pension income which he is treated as possessing for the purposes of paragraph (1) (or, where applicable, paragraph (1) read with paragraph (1B)).

(1D) A claimant who has attained the qualifying age shall be treated as possessing income from an occupational pension scheme which he elected to defer, but only from the date on which it could be expected to be acquired if a claim for it were made.”;

(b) after paragraph (8) add—

“(9) For the purposes of paragraph (6), a person is not to be regarded as depriving himself of income where—

(a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and

(b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004(a).

(10) In paragraph (9), ”registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004.”.

(5) In Schedule 2 (housing costs)—

(a) in paragraph 13(1)(a) (other housing costs), omit “and, in Scotland, payments by way of feu duty”;

(b) in paragraph 14 (persons residing with the claimant)—

(i) in sub-paragraph (2)(a)(b), for “(1)(c)” substitute “(1)(b)”, and

(ii) after sub-paragraph (7)(d)(c), insert—

“(dd) in respect of whom a deduction in the calculation of a rent rebate or allowance falls to be made under regulation 55 (non-dependant deductions) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006; or”.

(6) In paragraph 16(2) of Schedule 5 (capital disregarded for the purpose of calculating income)(d)—

(a) for sub-paragraph (a) substitute—

“(a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;”;

(b) in sub-paragraph (b), omit “Rule 131 of the Act of Sederunt (Rules of the Court, consolidation and amendment) 1965(e), or under”.

Amendment of the Housing Benefit Regulations 2006

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

(2) In regulation 46(4) (income treated as capital) for “or 25 to 28” substitute “, 25 to 28, 45 or 46”.

(3) In regulation 62 (relationship with amounts to be disregarded under Schedule 5)(f) omit from “and any other income” to the end of the regulation.

(4) In regulation 80(4)(a) (calculation of weekly amounts)(g) for “regulation 76(2)” substitute “regulation 76(2) or (3)”.

(a) 2004 c.12.

(b) Paragraph 14(2) was amended by S.I. 2002/3197.

(c) Paragraph 14(7) was amended by S.I. 2002/3197, 2003/1195, 2004/2327 and 2005/3360.

(d) Paragraph 16 was amended by S.I. 2002/3019.

(e) S.I. 1965/321.

(f) Regulation 62 was amended by S.I. 2006/1752.

(g) Paragraph (4) was substituted by S.I. 2005/2502 as amended by S.I. 2006/217.

(5) In paragraphs 11(4) and 13(8) of Schedule 3 (applicable amounts) for “52 weeks” in each place that it appears substitute “104 weeks”.

(6) In paragraph 26 of Schedule 5 (sums to be disregarded in the calculation of income other than earnings) for the words from “care authority” to the end of the paragraph substitute “local authority under regulation 9 of the Fostering of Children (Scotland) Regulations 1996 (payment of allowances)”.

(7) In Schedule 6 (capital to be disregarded)—

(a) in paragraph 14, after “claimant” insert “or the claimant’s partner”;

(b) after paragraph 14 insert—

“**14A.**—(1) Any payment made to the claimant or the claimant’s partner in consequence of any personal injury to the claimant or, as the case may be, the claimant’s partner.

(2) But sub-paragraph (1)—

(a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in consequence of that personal injury;

(b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);

(c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;

(d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).”;

(c) for paragraph 45 substitute—

“**45.**—(1) Any sum of capital to which sub-paragraph (2) applies and—

(a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;

(b) which can only be disposed of by order or direction of any such court; or

(c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.

(2) This sub-paragraph applies to a sum of capital which is derived from—

(a) an award of damages for a personal injury to that person; or

(b) compensation for the death of one or both parents where the person concerned is under the age of 18.”.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

16.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 are amended as follows.

(2) At the end of regulation 41 (notional income) add—

“(11) For the purposes of paragraph (8), a person is not to be regarded as depriving himself of income where—

(a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and

(b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004.

(12) In paragraph (11), "registered pension scheme" has the meaning given in section 150(2) of the Finance Act 2004."

(3) In regulation 59(11) (date on which change of circumstances is to take effect), after "the change of circumstances" insert "referred to in paragraph (10)(b)".

(4) In paragraph 17(2) of Schedule 6 (capital to be disregarded) for sub-paragraph (a) substitute—

"(a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;"

Amendment of the Council Tax Benefit Regulations 2006

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

(2) In regulation 36(4) (income treated as capital) for "or 25 to 28" substitute ", 25 to 28, 47 or 48".

(3) In regulation 49 (relationship with amounts to be disregarded under Schedule 4), omit the words "and any other income" to the end of the regulation.

(4) In paragraphs 11(4) and 13(9) of Schedule 1 (applicable amounts) for "52 weeks" in each place that it appears substitute "104 weeks".

(5) In paragraph 27 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) for the words from "care authority" to the end of the paragraph substitute "local authority under regulation 9 of the Fostering of Children (Scotland) Regulations 1996 (payment of allowances)".

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

(a) in paragraph 14 after "claimant" insert "or claimant's partner";

(b) after paragraph 14 insert—

"14A.—(1) Any payment made to the claimant or the claimant's partner in consequence of any personal injury to the claimant or, as the case may be, the claimant's partner.

(2) But sub-paragraph (1)—

(a) applies only for the period of 52 weeks beginning with the day on which the claimant first receives any payment in consequence of that personal injury;

(b) does not apply to any subsequent payment made to him in consequence of that injury (whether it is made by the same person or another);

(c) ceases to apply to the payment or any part of the payment from the day on which the claimant no longer possesses it;

(d) does not apply to any payment from a trust where the funds of the trust are derived from a payment made in consequence of any personal injury to the claimant.

(3) For the purposes of sub-paragraph (2)(c), the circumstances in which a claimant no longer possesses a payment or a part of it include where the claimant has used a payment or part of it to purchase an asset.

(4) References in sub-paragraphs (2) and (3) to the claimant are to be construed as including references to his partner (where applicable).";

(c) for paragraph 47 substitute—

"47.—(1) Any sum of capital to which sub-paragraph (2) applies and—

(a) which is administered on behalf of a person by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998 or by the Court of Protection;

- (b) which can only be disposed of by order or direction of any such court; or
 - (c) where the person concerned is under the age of 18, which can only be disposed of by order or direction prior to that person attaining age 18.
- (2) This sub-paragraph applies to a sum of capital which is derived from—
- (a) an award of damages for a personal injury to that person; or
 - (b) compensation for the death of one or both parents where the person concerned is under the age of 18.”.

Amendment of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

18.—(1) The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 are amended as follows.

(2) At the end of regulation 31 (notional income) insert—

“(11) For the purposes of paragraph (8), a person is not to be regarded as depriving himself of income where—

- (a) his rights to benefits under a registered pension scheme are extinguished and in consequence of this he receives a payment from the scheme, and
- (b) that payment is a trivial commutation lump sum within the meaning given by paragraph 7 of Schedule 29 to the Finance Act 2004.

(12) In paragraph (11), ”registered pension scheme” has the meaning given in section 150(2) of the Finance Act 2004.”.

(3) In regulation 50(11) (date on which change of circumstances is to take effect), after “the change of circumstances” insert “referred to in paragraph (10)(b)”.

(4) In paragraph 17(2) of Schedule 4 (capital to be disregarded) for sub-paragraph (a) substitute—

“(a) by the High Court or the County Court under Rule 21.11(1) of the Civil Procedure Rules 1998, or the Court of Protection, or on behalf of a person where the payment can only be disposed of by order or direction of any such court;”.

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

4th September 2006

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend a number of different regulations relating to social security.

Regulations 5 and 13 include amendments to the Income Support (General) Regulations 1987 (S.I. 1987/1967) (“the Income Support Regulations”) and the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207) (“the Jobseeker’s Allowance Regulations”)—

- (a) to include the new definitions relating to disabled children in the Tax Credits Act 2002 (c.21); and
- (b) to provide that certain charitable and voluntary payments of income are disregarded in full.

Regulation 5(8)(c) amends the Income Support Regulations to change the provisions on transitional protection for housing costs. In determining whether that protection is to be reduced, housing costs for any benefit week are compared to what they were in the immediately preceding benefit week.

Regulations 5, 13, 15 and 17 include amendments to the Income Support Regulations, the Jobseekers Allowance Regulations, the Housing Benefit Regulations 2006 (S.I. 2006/213) and the Council Tax Benefit Regulations (S.I. 2006/215)—

- (a) to create a disregard for any payment made in consequence of any personal injury to a claimant or his or her partner for a period of up to 52 weeks from the day of receipt of the first payment;
- (b) to enable awards of certain damages to be disregarded where these awards are not administered by the court but are held subject to the order or direction of the court. In addition, these Regulations provide that income derived from such capital is no longer to be treated as capital;
- (c) to take account of changes to the linking term for welfare to work beneficiaries in regulation 12 of these Regulations.

Regulation 9 amends the Social Security (Incapacity Benefit - Increases for Dependants) Regulations 1994 (S.I. 1994/2945) to provide for entitlement to an increase in incapacity benefit where the claimant lives with an adult who is entitled to child benefit in respect of a child or young person who is living with him.

Paragraph (4) of regulation 10 revokes paragraphs (2) and (3) of regulation 16 of the Social Security (Incapacity Benefit) Regulations 1994 (S.I. 1994/2946) which provided for a specific test for presence in Great Britain for certain Incapacity Benefit claimants who receive income on which they do not have to pay tax in the United Kingdom (tax-free emoluments). Regulations 4, 7 and 8 make the same revocations in relation to severe disablement allowance, attendance allowance and disability living allowance.

Regulation 12 amends the Social Security (Incapacity for Work) (General) Regulations 1995 (S.I. 1995/311). Paragraph (2) replaces regulation 11 of those Regulations as the previous provision made reference to procedures which are no longer in use.

Paragraph (3) of regulation 12 amends regulation 13A of S.I. 1995/311 to increase from one week to one month after entitlement ceased, the period within which a person must become engaged in remunerative work after cessation of benefit in order to be a welfare to work beneficiary and to remove the requirement to give notice. Paragraph (3)(f) amends regulation 13A(4) in order to extend the linking term (by which periods of incapacity for work can be linked together to form one period) which applies to welfare to work beneficiaries to 104 weeks and amends the definition of “immediate past period of incapacity for work” so that this refers to the most recent period of incapacity for work. Regulations 2, 10(2) and 11 amend provisions in the Social Security (Widow’s Benefit and Retirement Pensions) Regulations 1979 (S.I. 1979/642), the Social Security (Incapacity Benefit) Regulations 1994 and the Social Security (Incapacity Benefit)

(Transitional) Regulations 1995 (S.I. 1995/310) to increase the linking term which applies to relevant welfare to work beneficiaries to 104 weeks.

Regulations 14, 16 and 18 include amendments to the State Pension Credit Regulations 2002 (S.I. 2002/1792), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214) and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/216)—

- (a) to clarify the treatment of certain types of notional income;
- (b) to enable awards of certain damages to be disregarded where these awards are not administered by the court but are held subject to the order or direction of the court.

Regulations 16 and 18 include amendments to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 to clarify existing housing benefit and council tax benefit provisions on when a change of circumstances takes effect (regulations 16(3) and 18(3)).

These Regulations also contain a number of other minor amendments.

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

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