

**2006 No. 3188**

**SOCIAL SECURITY**

**The Social Security (Claims and Payments) Amendment (No. 2)  
Regulations 2006**

<i>Made</i>	- - - -	<i>28th November 2006</i>
<i>Laid before Parliament</i>		<i>6th December 2006</i>
<i>Coming into force</i>	- -	<i>27th December 2006</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 5(1)(p), 189(1), (4) and (6) and 191 of the Social Security Administration Act 1992(a) after consultation with the Social Security Advisory Committee(b).

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Claims and Payments) Amendment (No. 2) Regulations 2006 and shall come into force on 27th December 2006.

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

2.—(1) The Social Security (Claims and Payments) Regulations 1987(c) are amended as follows.

(2) In regulation 2(1) (interpretation), before the definition of “the 2000 Act” insert—

““the 1992 Act” means the Social Security Administration Act 1992;”.

(3) In Schedule 9 (deductions from benefit and direct payment to third parties)—

(a) after paragraph 7B(d) (arrears of child support maintenance) insert—

**“Eligible loans**

7C.—(1) In this paragraph—

“borrower” means a person who has, either solely or jointly, entered into a loan agreement with an eligible lender in respect of an eligible loan and who is, for the time being, entitled to an eligible benefit;

“eligible lender” means—

(a) a body registered under section 1 of the Industrial and Provident Societies Act 1965(e) (societies which may be registered);

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(a) 1992 c. 5. Section 191 is cited for the meaning given to the word “prescribe”.  
(b) See section 170 of the Social Security Administration Act 1992.  
(c) S.I. 1987/1968.  
(d) Paragraph 7B was inserted by S.I. 1996/2344.  
(e) 1965 c. 12.

- (b) a credit union within the meaning of section 1 of the Credit Unions Act 1979<sup>(a)</sup> (registration under the Industrial and Provident Societies Act 1965);
- (c) a charitable institution within the meaning of section 58(1) of the Charities Act 1992<sup>(b)</sup> (interpretation of Part II);
- (d) a body entered on the Scottish Charity Register under section 3 of the Charities and Trustee Investment (Scotland) Act 2005<sup>(c)</sup> (Scottish Charities Register),

which, except for a credit union, is licensed under the Consumer Credit Act 1974<sup>(d)</sup> and which may be determined by the Secretary of State as an appropriate body to which payments on behalf of the borrower may be made in respect of loans made by that body;

“eligible loan” means a loan made by a lender, who is at that time an eligible lender, to a borrower except a loan—

- (a) which is secured by a charge or pledge;
- (b) which is for the purpose of business or self-employment; or
- (c) which was made by means of a credit card;

“loan agreement” means an agreement between the eligible lender and the borrower in respect of an eligible loan.

(2) In this paragraph “eligible benefit” means—

- (a) carer’s allowance;
- (b) the following contributory benefits—
  - (i) incapacity benefit;
  - (ii) retirement pension; or
- (c) the following benefits—
  - (i) income support;
  - (ii) jobseeker’s allowance;
  - (iii) state pension credit.

(3) Where the conditions set out in sub-paragraph (4) are met the Secretary of State may deduct a sum from an eligible benefit to which the borrower is entitled equal to 5 per cent. of the personal allowance for a single borrower aged not less than 25 and pay that sum to the eligible lender towards discharge of the sum owing under the loan agreement at the date of the application.

(4) The conditions referred to in sub-paragraph (3) are—

- (a) the borrower has failed to make payments as agreed with the eligible lender for a period of 13 weeks before the date of the application and has not resumed making payments;
- (b) the borrower has given his written permission to the eligible lender to provide to the Secretary of State personal data within the meaning of section 1 of the Data Protection Act 1998<sup>(e)</sup> (basic interpretive provisions);
- (c) the eligible lender has agreed that no interest or other charge will be added to the amount owed at the date of the application;
- (d) no sum is being deducted under this paragraph;
- (e) no sum is being deducted from the borrower’s eligible benefit under section 71(8) of the 1992 Act (overpayments-general) at the date of the application; and

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(a) 1979 c. 34.  
(b) 1992 c. 41.  
(c) 2005 asp 10.  
(d) 1974 c. 39.  
(e) 1998 c. 29.

- (f) no sum is being deducted from the borrower's eligible benefit under section 78 of the 1992 Act (recovery of social fund awards) at the date of the application.
- (5) The Secretary of State shall notify the borrower and the eligible lender in writing of a decision to make a deduction under this paragraph.
- (6) The Secretary of State may make deductions under this paragraph only if the borrower is entitled to an eligible benefit throughout any benefit week.
- (7) The Secretary of State shall not make deductions from a benefit mentioned in sub-paragraph (2)(a) where the borrower is in receipt of another eligible benefit unless that benefit is one mentioned in sub-paragraph (2)(b) and is insufficient to enable the deduction to be made or is a benefit mentioned in sub-paragraph (2)(c) and the amount is insufficient to meet the deduction plus 10 pence.
- (8) The Secretary of State shall not make deductions from a benefit mentioned in sub-paragraph (2)(b) where the borrower is in receipt of a benefit mentioned in sub-paragraph (2)(c) unless the amount of that benefit is insufficient to meet the deduction plus 10 pence.
- (9) The Secretary of State shall cease making deductions from an eligible benefit if—
- (a) there is no longer sufficient entitlement to an eligible benefit to enable him to make the deduction;
  - (b) entitlement to all eligible benefits has ceased;
  - (c) a sum is deducted from the borrower's eligible benefit under section 71(8) of the 1992 Act;
  - (d) an eligible lender notifies the Secretary of State that he no longer wishes to accept payments by deductions;
  - (e) the borrower's liability to make payment in respect of the eligible loan has ceased;
  - (f) the lender has ceased to be an eligible lender; or
  - (g) the borrower no longer resides in Great Britain.
- (10) The sums deducted from an eligible benefit by the Secretary of State under this paragraph shall be paid to the eligible lender.
- (11) The Secretary of State shall notify the borrower in writing of the total of sums deducted by him under any application—
- (a) on receipt of a written request for such information from the borrower; or
  - (b) on the termination of deductions.
- (12) Where a deduction is made under this paragraph from a specified benefit, paragraph 8(a) (maximum amount of payment to third parties) is to have effect as if—
- (a) in sub-paragraph (1) for "and 7A" there were substituted ", 7A and 7C"; and
  - (b) in sub-paragraph (2) for "and 7" there were substituted ", 7 and 7C".; and
- (b) in paragraph 9(b) (priority as between certain debts)—
- (i) in sub-paragraph (1A)(a) after "7A" add "or 7C"; and
  - (ii) in sub-paragraph (1B) after sub-paragraph (g) add—  
 "(h) any liability mentioned in paragraph 7C (liability in respect of loans)."

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

*James Plaskitt*  
 Parliamentary Under Secretary of State,  
 Department for Work and Pensions

28th November 2006

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(a) The relevant amending instruments are S.I. 1990/2208, 1991/2284, 1992/1026, 1993/495, 1996/481, 1997/827, 2005/777 and 2006/2377.  
 (b) The relevant amending instruments are S.I. 1993/495, 1997/827 and 2005/777.

## **EXPLANATORY NOTE**

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

These Regulations amend the Social Security (Claims and Payments) Regulations 1987.

Regulation 2(2) inserts a new definition into regulation 2. Paragraph (3) amends Schedule 9 to enable the Secretary of State to make deductions from benefit and make payments, on behalf of the beneficiary, for the purpose of repaying certain loans.

The Report of the Social Security Advisory Committee dated 17th October 2006 on the proposals referred to them in respect of these Regulations together with a statement showing the extent to which these Regulations give effect to the Recommendations of the Committee, and in so far as they do not give effect to them, the reasons why not, are contained in Command Paper Cm. 6974 published by the Stationery Office Ltd.

A full regulatory impact assessment has not been carried out in respect of these Regulations as they do not impose a cost on business, charities or the voluntary sector.

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