

2008 No. 3157

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) (No. 7)
Regulations 2008**

<i>Made</i>	- - - -	<i>9th December 2008</i>
<i>Laid before Parliament</i>		<i>15th December 2008</i>
<i>Coming into force</i>	- -	<i>5th January 2009</i>

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

- sections 134(8)(a) and 139(6)(a) of the Social Security Administration Act 1992(a),
- sections 123(1)(a), (d) and (e), 130(2), 136(1), (3), (4) and (5), 136A(3), 137(1) and 175(1) to (4) of the Social Security Contributions and Benefits Act 1992(b),
- sections 12(1), (2), (4), 35(1) and 36(1), (2) and (4) of the Jobseekers Act 1995(c),
- sections 15(1)(e) and (j) and (2) to (6), 17(1) and 19(1) of the State Pension Credit Act 2002(d),
- sections 17, 24(1) and 25 of the Welfare Reform Act 2007(e).

The Social Security Advisory Committee(f) has agreed that the proposals in respect of these Regulations should not be referred to them.

(a) 1992 c. 5.
(b) 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 136A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act 2002 (c. 16). Section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”. Section 175(1) and (4) were amended by section 2 of, and paragraph 29(1) and (2) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
(c) 1995 c. 18. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”. Sections 35(1) and 36(4) were amended by section 2 of, and paragraphs 62 and 63 respectively of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
(d) 2002 c. 16. Section 17(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.
(e) 2007 c. 5. Section 24(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.
(f) See sections 170, 172(1) and 173(1)(b) of the Social Security Administration Act 1992.

In respect of the provisions in these Regulations relating to housing benefit and council tax benefit, the Secretary of State has consulted the organisations appearing to him to be representative of the authorities concerned^(a).

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 7) Regulations 2008 and, subject to paragraph (2), come into force on 5th January 2009.

(2) Regulations 2(7)(c), 2(7)(e)(ii), 3(10)(b), 3(10)(d), 3(10)(l), 3(11)(a), 4(3)(a), 4(5)(c), 4(5)(g), 4(6)(b) and (f) and 11(3)(a) 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 5th January 2009.

(3) In this regulation “benefit week” has the same meaning as in—

- (a) regulation 2(1) of the Income Support (General) Regulations 1987^(b), so far as it relates to regulations 2(7)(c) and 2(7)(e)(ii);
- (b) regulation 1(3) of the Jobseeker’s Allowance Regulations 1996^(c), so far as it relates to regulations 3(10)(b), 3(10)(d), 3(10)(l) and 3(11)(a);
- (c) regulation 2(1) of the Employment and Support Allowance Regulations 2008^(d), so far as it relates to regulation 11(3)(a);
- (d) regulation 1(2) of the State Pension Credit Regulations 2002^(e), so far as it relates to regulations 4(3)(a), 4(5)(c), 4(5)(g) and 4(6)(b) and (f).

Amendment of the Income Support (General) Regulations 1987

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

(2) In regulation 2(1) (interpretation)—

- (a) in the definition of “concessionary payment”, for “under the Act, the Social Security Act or the Child Benefit Act 1975” substitute “or tax credits under the benefit Acts or the Tax Credits Act 2002^(f)”;
- (b) omit the definition of “mobility allowance”;
- (c) in the definition of “mobility supplement”, for “article 26A of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006^(g)”;
- (d) in the definition of “training allowance”, in sub-paragraphs (a) and (c), for “National Assembly for Wales” substitute “Welsh Ministers”;
- (e) omit the definition of “war widower’s pension”;
- (f) insert the following definitions at the appropriate places in alphabetical order—
 - ““war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003^(h);

(a) See section 176(1) of the Social Security Administration Act 1992 as amended by section 103 of, and paragraph 23 of Schedule 9 to, the Local Government Finance Act 1992.

(b) S.I. 1987/1967.

(c) S.I. 1996/207.

(d) S.I. 2008/794.

(e) S.I. 2002/1792.

(f) 2002 c. 21.

(g) S.I. 2006/606.

(h) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”.

(3) In regulation 13(3)(b)(ii) (circumstances in which persons in relevant education are to be entitled to income support), for “article 26 of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983 (provision of expenses in respect of appropriate aids for disabled living)” substitute “article 21 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (medical expenses)”.

(4) In regulations 42(4)(a)(i) (notional income) and 51(3)(a)(i) (notional capital) omit “the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”.

(5) In regulation 61(1) (interpretation)—

- (a) in the definition of “access funds”, in sub-paragraph (e), for “National Assembly for Wales” substitute “Welsh Ministers”;
- (b) in the definition of “full-time course of advanced education”, for “National Assembly for Wales” (where three times occurring) substitute “Welsh Ministers”;
- (c) in the definition of “full-time course of study”, for “National Assembly for Wales” (where three times occurring) substitute “Welsh Ministers”.

(6) In Schedule 1B (prescribed categories of person), in paragraph 28 (persons engaged in training), for “National Assembly for Wales” substitute “Welsh Ministers”.

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

(a) for paragraph 5 substitute—

“5. Any housing benefit to which the claimant is entitled.”;

(b) in paragraph 6, for “Any mobility allowance or the” substitute “The”;

(c) for paragraph 7(b) substitute—

“(b) income support;

(c) an income-based jobseeker’s allowance; or

(d) an income-related employment and support allowance.”;

(d) in paragraph 11—

(i) for sub-paragraph (1)(a)(iii) substitute—

“(iii) directions made under section 73ZA of the Education (Scotland) Act 1980(a) and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992(b); or”;

(ii) for sub-paragraph (2)(c) substitute—

“(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992.”;

(e) in paragraph 16—

(a) Section 73ZA was inserted by the Further and Higher Education (Scotland) Act 2005 (asp 6), section 19(1).

(b) 1992 c. 37.

- (i) in sub-paragraph (c) omit “the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”;
 - (ii) in sub-paragraph (cc), after “payment” insert “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”;
- (f) in paragraph 25—
- (i) in sub-paragraph (1)(a), for “Secretary of State under section 51” substitute “Scottish Ministers under section 51A”;
 - (ii) omit sub-paragraph (1)(b);
- (g) in paragraph 27—
- (i) in sub-paragraph (d) omit “or”;
 - (ii) in sub-paragraph (e), for “1977.” substitute “1977 or established by an order made under section 18(2)(c) of the Health Service Act; or”;
 - (iii) after sub-paragraph (e) insert—
 - “(f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the Health Service (Wales) Act.”;
- (h) in paragraph 31, for “Part III of the Act” substitute “Part 8 of the Contributions and Benefits Act”;
- (i) in paragraph 33, for “paragraph 2 of Schedule 6 to the Act” substitute “Part 10 of the Contributions and Benefits Act”;
- (j) omit paragraph 47;
- (k) for paragraphs 48 and 49 substitute—
- “48.—(1) Any payment or repayment made—**
- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003^(a) (travelling expenses and health service supplies);
 - (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 ^(b) (travelling expenses and health service supplies);
 - (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003^(c) (travelling expenses and health service supplies).
- (2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).**
- 49. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988^(d) in lieu of vouchers or similar arrangements in connection with the provision of those benefits**

(a) S.I. 2003/2382.
 (b) S.I. 2007/1104.
 (c) S.S.I.2003/460.
 (d) 1988 c. 7.

(including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).”;

(l) in paragraph 50, for “Secretary of State for Scotland” substitute “Scottish Ministers”;

(m) for paragraphs 52, 53 and 54 substitute—

“**52.** Any council tax benefit.

53.—(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

54. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;

(n) for paragraph 56(1)(b) substitute—

“(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.”;

(o) omit paragraph 57;

(p) in paragraph 76(1), for “National Assembly for Wales” substitute “Welsh Ministers”.

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

(a) in paragraph 18, for “Part III of the Act” substitute “Part 8 of the Contributions and Benefits Act”;

(b) in paragraph 19, for “section 26 of the Finance Act 1982 (deductions of tax from certain loan interest)” substitute “section 369 of the Income and Corporation Taxes Act 1988(a) (mortgage interest payable under deduction of tax)”;

(c) for paragraphs 38 and 39 substitute—

“**38.—**(1) Any payment or repayment made—

(a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);

(b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);

(c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(a) 1988 c. 1.

39. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.”;

- (d) in paragraph 40, for “Secretary of State for Scotland” substitute “Scottish Ministers”;
- (e) for paragraph 41 substitute—

“41. Any arrears of supplementary pension which is disregarded under paragraph 54 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 55 or 56 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.”;

- (f) omit paragraphs 47, 48 and 49;
- (g) in paragraph 63—

- (i) for sub-paragraph (1)(a)(iii) substitute—

- “(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; or”;

- (ii) for sub-paragraph (2)(c) substitute—

- “(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992.”;

- (h) in paragraph 65 omit “within the meaning in section 25 of the Social Security Act 1989”;
- (i) in paragraph 66(1), for “National Assembly for Wales” substitute “Welsh Ministers”.

Amendment of the Jobseeker’s Allowance Regulations 1996

3.—(1) The Jobseeker’s Allowance Regulations 1996 are amended as follows.

(2) In regulation 1(3) (interpretation)—

- (a) in the definition of “concessionary payment”, for “under the Act or the Benefits Act” substitute “or tax credits under the benefit Acts or the Tax Credits Act 2002(a)”;
- (b) in the definition of “full-time course of advanced education”, for “National Assembly for Wales” (where three times occurring) substitute “Welsh Ministers”;
- (c) in the definition of “full-time student”, for “National Assembly for Wales” (where three times occurring) substitute “Welsh Ministers”;
- (d) in the definition of “mobility supplement”, for “article 26A of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(b)”;
- (e) in the definition of “training allowance”, in sub-paragraphs (a) and (c), for “National Assembly for Wales” substitute “Welsh Ministers”;
- (f) omit the definitions of “war disablement pension”, “war widow’s pension” and “war widower’s pension”;
- (g) insert the following definitions at the appropriate places in alphabetical order—
 - ““the benefit Acts” means the Act, the Benefits Act and Part 1 of the Welfare Reform Act 2007(c);

(a) 2002 c. 21.
(b) S.I. 2006/606.
(c) c. 5.

“war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(a);

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”.

(3) In regulation 11(3) (part-time students), for “National Assembly for Wales” substitute “Welsh Ministers”.

(4) In regulation 57(1) (interpretation of Part IV), in the definition of “training”, for “National Assembly for Wales” substitute “Welsh Ministers”.

(5) In regulation 75(1)(b)(i) (interpretation), for “National Assembly for Wales” substitute “Welsh Ministers”.

(6) In regulation 105(10)(a)(i) (notional income) and 113(3)(a)(i) (notional capital), for “Act or under the Benefits Act, a payment from the Armed Forces and Reserve Forces Compensation Scheme, a war disablement pension or war widow’s pension or war widower’s pension” substitute “benefit Acts, a payment from the Armed Forces and Reserve Forces Compensation Scheme, a war disablement pension, war widow’s pension or war widower’s pension or a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown”.

(7) In regulation 130 (interpretation), in the definition of “access funds”, in sub-paragraph (e), for “National Assembly for Wales” substitute “Welsh Ministers”.

(8) In regulation 170(2) (persons in receipt of a training allowance), for “National Assembly for Wales” substitute “Welsh Ministers”.

(9) In Schedule A1 (categories of members of a joint-claim couple who are not required to satisfy the conditions in section 1(2B)(b)), in paragraph 16 (young persons in training), for “National Assembly for Wales” substitute “Welsh Ministers”.

(10) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—

(a) for paragraph 7 substitute—

“7. The mobility component of disability living allowance.”;

(b) for paragraph 8(b) substitute—

“(b) income support;

(c) an income-based jobseeker’s allowance; or

(d) an income-related employment and support allowance.”;

(c) in paragraph 12—

(i) for sub-paragraph (1)(a)(iii) substitute—

“(iii) directions made under section 73ZA of the Education (Scotland) Act 1980(b) and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992(c); or”;

(a) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).

(b) Section 73ZA was inserted by the Further and Higher Education (Scotland) Act 2005 (asp 6), section 19(1).

(c) 1992 c. 37.

- (ii) for sub-paragraph (2)(c) substitute—
 - “(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992.”;
- (d) for paragraph 17 substitute—
 - “17. Subject to paragraphs 38 and 39, £10 of any of the following, namely—
 - (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 9 or 10);
 - (b) a war widow’s pension or war widower’s pension;
 - (c) a pension payable to a person as a widow, widower or surviving civil partner under any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
 - (d) a guaranteed income payment and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10;
 - (e) a payment made to compensate for the non-payment of such a pension or payment as is mentioned in any of the preceding sub-paragraphs;
 - (f) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions or payments mentioned in sub-paragraphs (a) to (d) above;
 - (g) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria;
 - (h) any widowed mother’s allowance paid pursuant to section 37 of the Benefits Act;
 - (i) any widowed parent’s allowance paid pursuant to section 39A of the Benefits Act.”;
- (e) in paragraph 26—
 - (i) in sub-paragraph (1)(a), for “Secretary of State under section 51” substitute “Scottish Ministers under section 51A”;
 - (ii) omit sub-paragraph (1)(b);
- (f) in paragraph 28—
 - (i) in sub-paragraph (d) omit “or”;
 - (ii) in sub-paragraph (e), for “1977.” substitute “1977 or established by an order made under section 18(2)(c) of the Health Service Act; or”;
 - (iii) after sub-paragraph (e) insert—
 - “(f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the Health Service (Wales) Act.”;
- (g) omit paragraph 40;
- (h) in paragraph 43, for “Act or under the Benefits Act” substitute “benefit Acts”;
- (i) omit paragraph 46;
- (j) for paragraphs 47 and 48 substitute—
 - “47.—(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003^(a) (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007^(b) (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003^(c) (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).

48. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988^(d) in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).”;

- (k) in paragraph 49, for “Secretary of State for Scotland” substitute “Scottish Ministers”;
- (l) for paragraphs 52 and 53 substitute—

“**52.**—(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Benefits Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

53. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;

- (m) for paragraph 55(1)(b) substitute—

“(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.”;

- (n) in paragraph 72(1), for “National Assembly for Wales” substitute “Welsh Ministers”.
- (11) In Schedule 8 (capital to be disregarded)—

- (a) in paragraph 12(1)(b), for “a jobseeker’s” substitute “an income-based jobseeker’s”;
- (b) in paragraph 34, for “Act or under the Benefits Act” substitute “benefit Acts”;
- (c) for paragraphs 36 and 37 substitute—

“**36.**—(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);

(a) S.I. 2003/2382.
 (b) S.I. 2007/1104.
 (c) S.S.I. 2003/460.
 (d) 1988 c. 7.

- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

37. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988^(a) in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.”;

- (d) in paragraph 38, for “Secretary of State for Scotland” substitute “Scottish Ministers”;
- (e) for paragraph 39 substitute—

“**39.** Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.”;

- (f) in paragraph 52—
 - (i) for sub-paragraph (1)(a)(iii) substitute—
 - “(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; or”;
 - (ii) for sub-paragraph (2)(c) substitute—
 - “(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992.”;
- (g) in paragraph 58 omit “within the meaning in section 25 of the Social Security Act 1989”;
- (h) in paragraph 59(1), for “National Assembly for Wales” substitute “Welsh Ministers”.

Amendment of the State Pension Credit Regulations 2002

4.—(1) The State Pension Credit Regulations 2002 are amended as follows.

(2) In regulation 1(2) (interpretation), in the definition of “attendance allowance”, for paragraph (f) substitute—

“(f) any payment based on a need for attendance which is paid as part of a war disablement pension, or any other such payment granted in respect of disablement which falls within regulation 15(5)(ac);”.

(3) In regulation 15(5) (income for the purposes of the Act)—

- (a) for sub-paragraph (a) substitute—
 - “(a) a payment made—

(a) 1988 c. 7.

- (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(a), in any case where article 30(1)(b) applies; or
 - (ii) under article 12(8) of that Order, in any case where sub-paragraph (b) of that article applies;”;
- (b) in sub-paragraph (ab), for “but only where the condition referred to in article 23(2)(c) is met” substitute “, in any case where article 23(2)(c) applies”;
- (c) after sub-paragraph (ab) insert—
 - “(ac) any retired pay, pension or allowance granted in respect of disablement or any pension or allowance granted to a widow, widower or surviving civil partner in respect of a death due to service or war injury under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(b), where such payment does not fall within paragraph (a) of the definition of “war disablement pension” in section 17(1) of the State Pension Credit Act 2002 or, in respect of any retired pay or pension granted in respect of disablement, where such payment does not fall within paragraph (b) of that definition;”.
- (4) In regulation 17B(4)(b) (earnings of self-employed earners), in the substituted paragraph (2)—
 - (a) in sub-paragraph (d)(iv) omit “or”;
 - (b) in sub-paragraph (d)(v), for “1977;” substitute “1977 or established by an order made under section 18(2)(c) of the Health Service Act; or”;
 - (c) after sub-paragraph (d)(v) insert—
 - “(vi) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the Health Service (Wales) Act;”.
- (5) In Schedule 4 (amounts to be disregarded in the calculation of income other than earnings)—
 - (a) after paragraph 1(b) insert—
 - “(ba) unless paragraph 1(a) or (b) applies, any payment described in regulation 15(5)(ac) (except insofar as such a payment falls to be disregarded under paragraph 2 or 3);”;
 - (b) in paragraph 1(c) omit “the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”;
 - (c) in paragraph 1(cc), after “payment” insert “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”;
 - (d) in paragraph 3, for “article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”;
 - (e) for paragraph 4 substitute—
 - “4. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;
 - (f) for paragraph 6(1)(b) substitute—

(a) S.I. 2006/606.

(b) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).

“(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.”;

(g) in paragraph 12—

(i) for “pension under Part IV of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”;

(ii) omit “spouse or civil”;

(h) omit paragraph 17.

(6) In Schedule 5 (income from capital)—

(a) renumber the existing provision contained in paragraph 14 as sub-paragraph (1) and after the renumbered sub-paragraph (1) insert—

“(2) In sub-paragraph (1), “war disablement pension” and “war widow’s or widower’s pension” include any payment described in regulation 15(5)(ac).”;

(b) in paragraph 17, after “18 to 20” insert “or 20B”;

(c) in paragraph 20—

(i) in sub-paragraph (1)(d), for “National Assembly for Wales” substitute “Welsh Ministers”;

(ii) in sub-paragraph (2)(i), for “a war widow’s or widower’s pension” substitute “any other such amount described in regulation 15(5)(ac)”;

(d) in paragraph 20A(2) omit sub-paragraphs (c) and (d);

(e) after paragraph 20A(2)(e) insert—

“(f) paragraph 9(2) of Schedule 6 to the Housing Benefit Regulations 2006(a);

(g) paragraph 22 of Schedule 6 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(b);

(h) paragraph 9(2) of Schedule 5 to the Council Tax Benefit Regulations 2006(c); or

(i) paragraph 22 of Schedule 4 to the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(d).”;

(f) after paragraph 20A insert—

“**20B.** Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 4 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.”.

(7) In Schedule 6 (sums disregarded from claimant’s earnings), in paragraph 4(1)(a)(v), for “article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”.

Amendment of the Housing Benefit Regulations 2006

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

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “concessionary payment”, for “under the Act” substitute “or tax credits under the benefit Acts or the Tax Credits Act”;

(a) S.I. 2006/213.
(b) S.I. 2006/214.
(c) S.I. 2006/215.
(d) S.I. 2006/216.
(e) S.I. 2006/213.

- (b) in the definition of “registered housing association”(a), in sub-paragraph (a), for “National Assembly for Wales” substitute “Welsh Ministers”;
- (c) in the definition of “training allowance”, in sub-paragraphs (a) and (c), for “National Assembly for Wales” substitute “Welsh Ministers”;
- (d) insert the following definitions at the appropriate places in alphabetical order—
 - ““war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(b);
 - “war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;
 - “war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;
 - “war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”.
- (3) In regulation 28(11)(d)(vi) (treatment of child care charges), for “under a war pension scheme or” substitute “paid as part of a war disablement pension or under”.
- (4) In regulation 53(1) (interpretation)—
 - (a) in the definition of “access funds”, in sub-paragraph (e), for “National Assembly for Wales” substitute “Welsh Ministers”;
 - (b) in the definition of “full-time course of study”(c), for “National Assembly for Wales” (where three times occurring) substitute “Welsh Ministers”.
- (5) In Schedule 1 (ineligible services changes), in paragraph 1(a)(iv), for “National Assembly for Wales” substitute “Welsh Ministers”.
- (6) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings)—
 - (a) in paragraph 8, for “article 26A of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(d)”;
 - (b) in paragraph 11—
 - (i) for sub-paragraph (1)(a)(iii) substitute—
 - “(iii) directions made under section 73ZA of the Education (Scotland) Act 1980(e) and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992(f); or”;
 - (ii) for sub-paragraph (2)(c) substitute—
 - “(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992.”;
 - (c) in paragraph 15—
 - (i) in sub-paragraph (c) omit “the Naval, Military and Air Forces Etc (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act

(a) The definition of “registered housing association” was substituted by S.I. 2008/586.
 (b) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).
 (c) The definition of “full-time course of study” was amended by S.I. 2005/3238 (W. 243) (as amended by S.I. 2006/217).
 (d) S.I. 2006/606.
 (e) Section 73ZA was inserted by the Further and Higher Education (Scotland) Act 2005 (asp 6), section 19(1).
 (f) 1992 c. 37.

1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”;

- (ii) in sub-paragraph (d), after “payment” insert “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”;
- (d) in paragraph 25—
 - (i) in sub-paragraph (1)(a), for “section 51” substitute “section 51A”;
 - (ii) omit sub-paragraph (1)(b);
- (e) in paragraph 27—
 - (i) in sub-paragraph (d) omit “or”;
 - (ii) in sub-paragraph (e), for “1977.” substitute “1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006(a); or”;
 - (iii) after sub-paragraph (e) insert—
 - “(f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006(b).”;
- (f) in paragraph 35(7), for “Bombing” substitute “Bombings”;
- (g) omit paragraphs 38 and 43;
- (h) for paragraphs 44 and 45 substitute—

“44.—(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(c) (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007(d) (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(e) (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).

45. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988(f) in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).”;

- (i) for paragraphs 51, 52 and 53 substitute—

“51. Any council tax benefit.

52.—(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section

(a) 2006 c. 41.
(b) 2006 c. 42.
(c) S.I. 2003/2382.
(d) S.I. 2007/1104 (W. 116).
(e) S.S.I. 2003/460.
(f) 1988 c. 7.

106(a) (unemployability supplement) of the Act, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant's family.

53. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;

(j) for paragraph 55(1)(b) substitute—

“(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.”;

(k) omit paragraphs 55A and 55B;(a)

(l) in paragraph 63(1), for “National Assembly for Wales” substitute “Welsh Ministers”.

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

(a) for paragraphs 39, 40 and 41 substitute—

“**39.** Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 5 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

40.—(1) Any payment or repayment made—

(a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);

(b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);

(c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

41. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.”;

(b) omit paragraphs 48A and 48B;(b)

(c) in paragraph 51—

(i) for sub-paragraph (1)(a)(iii) substitute—

(a) These transitory modifications were inserted by Schedule 4 of S.I. 2006/217 and lapsed on 14 June 2007 (on the coming into force of section 12(2)(e) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (2004 c. 19)).

(b) These transitory modifications were inserted by Schedule 4 of S.I. 2006/217 and lapsed on 14 June 2007 (on the coming into force of section 12(2)(e) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (2004 c. 19)).

- “(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; or”;
- (ii) for sub-paragraph (2)(c) substitute—
 - “(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992.”;
- (d) in paragraph 56 omit “within the meaning of section 25 of the Social Security Act 1989”;
- (e) in paragraph 57(1), for “National Assembly for Wales” substitute “Welsh Ministers”.

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

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

(2) In regulation 2(1) (interpretation)—

- (a) for the definition of “concessionary payment” substitute—
 - ““concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act are charged;”;
- (b) in the definition of “registered housing association”(b), in sub-paragraph (a), for “National Assembly for Wales” substitute “Welsh Ministers”;
- (c) in the definition of “training allowance”, in sub-paragraphs (a) and (c), for “National Assembly for Wales” substitute “Welsh Ministers”;
- (d) insert the following definitions at the appropriate places in alphabetical order—
 - ““war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(c);
 - “war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;
 - “war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;
 - “war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”.

(3) In regulation 24(1) (circumstances in which income of non-dependant is to be treated as claimant’s), for “income support or an income-based jobseeker’s allowance” substitute “a guarantee credit”.

(4) In regulation 29(1) (meaning of “income”)—

- (a) for sub-paragraph (h) substitute—
 - “(h) a payment made under article 21(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, in any case where article 23(2)(c) applies;”;
- (b) for sub-paragraph (l) substitute—

(a) S.I. 2006/214.

(b) The definition of “registered housing association” was substituted by S.I. 2008/586.

(c) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).

“(l) a payment made—

- (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(a), in any case where article 30(1)(b) applies; or
- (ii) under article 12(8) of that Order, in any case where sub-paragraph (b) of that article applies;”.

(5) In regulation 31(11)(d)(vi) (treatment of child care charges), for “under a war pension scheme or” substitute “paid as part of a war disablement pension or under”.

(6) In regulation 38(2) (earnings of self-employed earners)—

- (a) in sub-paragraph (d)(iv) omit “or”;
- (b) in sub-paragraph (d)(v), for “1977;” substitute “1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006(b); or”;
- (c) after sub-paragraph (d)(v) insert—

“(vi)a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006(c);”.

(7) In Schedule 1 (ineligible service charges), in paragraph (1)(a)(iv), for “National Assembly for Wales” substitute “Welsh Ministers”.

(8) In Schedule 4 (sums disregarded from claimant’s earnings), in paragraph 5(1)(a)(v), for “article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”.

(9) In Schedule 5 (amounts to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 1—
 - (i) in sub-paragraph (c) omit “the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”;
 - (ii) in sub-paragraph (d), after “payment” insert “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”;
- (b) in paragraph 3, for “article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”;

(c) for paragraph 4 substitute—

“4. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;

(d) for paragraph 6(1)(b) substitute—

“(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.”;

(e) in paragraph 13—

(a) S.I. 2006/606.
(b) 2006 c. 41.
(c) 2006 c. 42.

- (i) for “pension under Part 4 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”;
 - (ii) omit “spouse or civil”;
 - (f) in paragraph 21, after “satisfies” insert “any of”;
 - (g) omit paragraph 23.
- (10) In Schedule 6 (capital to be disregarded)—
- (a) in paragraph 15, for “war disablement pension or a war widow’s or widower’s pension” substitute “war pension”;
 - (b) in paragraph 18, for “or 21” substitute “, 21 or 26B”;
 - (c) in paragraph 21(1)(e), for “National Assembly for Wales” substitute “Welsh Ministers”;
 - (d) at the end of Part 1 add—
- “**26B.** Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 5 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.”.

Amendment of the Council Tax Benefit Regulations 2006

- 7.—(1) The Council Tax Benefit Regulations 2006(a) are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) in the definition of “concessionary payment”, for “under the Act” substitute “or tax credits under the benefit Acts or the Tax Credits Act”;
 - (b) in the definition of “training allowance”, in sub-paragraphs (a) and (c), for “National Assembly for Wales” substitute “Welsh Ministers”;
 - (c) insert the following definitions at the appropriate places in alphabetical order—
 - ““war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(b);
 - “war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;
 - “war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;
 - “war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”.
- (3) In regulation 18(11)(d)(vi) (treatment of child care charges), for “under a war pension scheme or” substitute “paid as part of a war disablement pension or under”.
- (4) In regulation 43(1) (interpretation)—
- (a) in definition of “access funds”, in sub-paragraph (e), for “National Assembly for Wales” substitute “Welsh Ministers”;
 - (b) in the definition of “full-time course of study”, for “National Assembly for Wales” (where three times occurring) substitute “Welsh Ministers”.
- (5) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—

(a) S.I. 2006/215.

(b) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).

- (a) in paragraph 9, for “article 26A of the Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(a)”;
- (b) in paragraph 12—
 - (i) for sub-paragraph (1)(a)(iii) substitute—
 - “(iii) directions made under section 73ZA of the Education (Scotland) Act 1980(b) and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992(c); or”;
 - (ii) for sub-paragraph (2)(c) substitute—
 - “(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992.”;
- (c) in paragraph 16—
 - (i) in sub-paragraph (c) omit “the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”;
 - (ii) in sub-paragraph (d), after “payment” insert “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”;
- (d) in paragraph 26—
 - (i) in sub-paragraph (1)(a), for “section 51” substitute “section 51A”;
 - (ii) omit sub-paragraph (1)(b);
- (e) in paragraph 28—
 - (i) in sub-paragraph (d) omit “or”;
 - (ii) in sub-paragraph (e), for “1977.” substitute “1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006(d); or”;
 - (iii) after sub-paragraph (e) insert—
 - “(f) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006(e).”;
- (f) in paragraph 33, for “section 148” substitute “Part 10”;
- (g) for paragraph 37 substitute—
 - “37. Any housing benefit.”;
- (h) omit paragraphs 40 and 44;
- (i) for paragraphs 45 and 46 substitute—
 - “45.—(1) Any payment or repayment made—
 - (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003(f) (travelling expenses and health service supplies);

(a) S.I. 2006/606.

(b) Section 73ZA was inserted by the Further and Higher Education (Scotland) Act 2005 (asp 6), section 19(1).

(c) 1992 c. 37.

(d) 2006 c. 41.

(e) 2006 c. 42.

(f) S.I. 2003/2382.

- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007^(a) (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003^(b) (travelling expenses and health service supplies).

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1).

46. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988^(c) in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins).”;

- (j) in paragraph 47, for “Secretary of State for Scotland” substitute “Scottish Ministers”;
- (k) for paragraphs 52 and 53 substitute—

“**52.**—(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of the Act, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006, any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

53. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;

- (l) for paragraph 55(1)(b) substitute—

“(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.”;

- (m) after paragraph 55 insert—

“**55A.** Any council tax benefit to which the claimant is entitled.”;

- (n) omit paragraphs 56A and 56B;^(d)
 - (o) in paragraph 63(1), for “National Assembly for Wales” substitute “Welsh Ministers”.
- (6) In Schedule 5 (capital to be disregarded)—
- (a) in paragraph 1, after “in particular” insert “, in Scotland.”;
 - (b) in paragraph 24(1), after “London Bombings Relief” insert “Charitable”;
 - (c) for paragraphs 39, 40 and 41 substitute—

“**39.** Any arrears of supplementary pension which is disregarded under paragraph 53 of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 54 or 55 of that Schedule, but only for a period of 52 weeks from the date of receipt of the arrears.

(a) S.I. 2007/1104.

(b) S.S.I. 2003/460.

(c) 1988 c. 7.

(d) These transitory modifications were inserted by Schedule 4 of S.I. 2006/217 and lapsed on 14 June 2007 (on the coming into force of section 12(2)(g) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (2004 c. 19)).

40.—(1) Any payment or repayment made—

- (a) as respects England, under regulation 5, 6 or 12 of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 (travelling expenses and health service supplies);
- (b) as respects Wales, under regulation 5, 6 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 (travelling expenses and health service supplies);
- (c) as respects Scotland, under regulation 3, 5 or 11 of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (travelling expenses and health service supplies),

but only for a period of 52 weeks from the date of receipt of the payment or repayment.

(2) Any payment or repayment made by the Secretary of State for Health, the Scottish Ministers or the Welsh Ministers which is analogous to a payment or repayment mentioned in sub-paragraph (1), but only for a period of 52 weeks from the date of receipt of the payment or repayment.

41. Any payment made to such persons entitled to receive benefits as may be determined by or under a scheme made pursuant to section 13 of the Social Security Act 1988 in lieu of vouchers or similar arrangements in connection with the provision of those benefits (including payments made in place of healthy start vouchers, milk tokens or the supply of vitamins), but only for a period of 52 weeks from the date of receipt of the payment.”;

(d) in paragraph 53—

(i) for sub-paragraph (1)(a)(iii) substitute—

“(iii) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992; or”;

(ii) for sub-paragraph (2)(c) substitute—

“(c) directions made under section 73ZA of the Education (Scotland) Act 1980 and paid under section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992,”;

(e) omit paragraphs 53A and 53B;(a)

(f) in paragraph 57(2)(a), after “trust” insert “payment”;

(g) in paragraph 58 omit “within the meaning of section 25 of the Social Security Act 1989”;

(h) in paragraph 59(1), for “National Assembly for Wales” substitute “Welsh Ministers”.

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

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

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “concessionary payment” substitute—

““concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act are charged;”;

(a) These transitory modifications were inserted by Schedule 4 of S.I. 2006/217 and lapsed on 14 June 2007 (on the coming into force of section 12(2)(g) of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (2004 c. 19)).

(b) S.I. 2006/216.

- (b) in the definition of “The London Bombing Relief Charitable Fund”, for “Bombing” substitute “Bombings”;
 - (c) in the definition of “training allowance”, in sub-paragraphs (a) and (c), for “National Assembly for Wales” substitute “Welsh Ministers”;
 - (d) insert the following definitions at the appropriate places in alphabetical order—
 - ““war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(a);
 - “war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;
 - “war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;
 - “war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”.
- (3) In regulation 14(1) (circumstances in which income of non-dependant is to be treated as claimant’s), after “that authority shall” insert “, except where the claimant is on a guarantee credit.”.
- (4) In regulation 19(1) (meaning of “income”)—
- (a) for sub-paragraph (h) substitute—
 - “(h) a payment made under article 21(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, in any case where article 23(2)(c) applies;”;
 - (b) for sub-paragraph (l) substitute—
 - “(l) a payment made—
 - (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(b), in any case where article 30(1)(b) applies; or
 - (ii) under article 12(8) of that Order, in any case where sub-paragraph (b) of that article applies;”.
- (5) In regulation 21(11)(d)(vi) (treatment of child care charges), for “under a war pension scheme or” substitute “paid as part of a war disablement pension or under”.
- (6) In regulation 28(2) (earnings of self-employed earners)—
- (a) in sub-paragraph (d)(iv) omit “or”;
 - (b) in sub-paragraph (d)(v), for “1977;” substitute “1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006(c); or”;
 - (c) after sub-paragraph (d)(v) insert—
 - “(vi)a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006(d);”.
- (7) In Schedule 2 (sums disregarded from claimant’s earnings), in paragraph 5(1)(a)(v), for “article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(e)”.

(a) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).
 (b) S.I. 2006/606.
 (c) 2006 c. 41.
 (d) 2006 c. 42.
 (e) S.I. 2006/606.

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

(a) in paragraph 1—

(i) in sub-paragraph (c) omit “the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”;

(ii) in sub-paragraph (d), after “payment” insert “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”;

(b) in paragraph 3, for “article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”;

(c) for paragraph 4 substitute—

“4. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;

(d) for paragraph 6(1)(b) substitute—

“(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.”;

(e) in paragraph 13—

(i) for “pension under Part 4 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”;

(ii) omit “spouse or civil”;

(f) in paragraph 21, after “satisfies” insert “any of”;

(g) omit paragraph 22.

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

(a) in paragraph 15, for “war disablement pension or a war widow’s or widower’s pension” substitute “war pension”;

(b) in paragraph 18, for “or 21” substitute “, 21 or 25A”;

(c) before paragraph 26 insert—

“25A. Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 3 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.”.

Amendment of the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006

9. In Schedule 4 to the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006^(a) (transitory modifications), omit paragraphs 4(2)(b) and (c) and 4(4)(b) and (c).

(a) S.I. 2006/217.

Amendment of the Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007

10. For the Schedule to the Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007(a) substitute—

“THE SCHEDULE

War disablement and war widow’s and widower’s pensions

PART 1

War disablement pensions

- 1.** A war disablement pension is—
 - (a) any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003(b); or
 - (b) a payment made under article 14(1)(b) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(c).

PART 2

War widow’s and widower’s pensions

- 2.** A war widow’s pension is—
 - (a) any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person; or
 - (b) a payment made under article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005.
- 3.** A war widower’s pension is—
 - (a) any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person; or
 - (b) a payment made under article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005.”.

Amendment of the Employment and Support Allowance Regulations 2008

11.—(1) The Employment and Support Allowance Regulations 2008 are amended as follows.

(2) In regulation 2(1) (interpretation)—

- (a) in the definition of “concessionary payment” omit “either to the National Insurance Fund or”;

(a) S.I. 2007/1619.

(b) 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).

(c) S.I. 2005/439.

- (b) in the definition of “war disablement pension”, for “retirement pay, pension or allowance granted” substitute “retired pay or pension or allowance payable”;
 - (c) in the definitions of “war widow’s pension” and war widower’s pension”, for “means a pension” substitute “means any pension or allowance”.
- (3) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 17(d), after “payment” insert “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”;
 - (b) for paragraph 50 substitute—

“50.—(1) If the claimant is in receipt of any benefit under Part 2, 3 or 5 of the Contributions and Benefits Act, any increase in the rate of that benefit arising under Part 4 (increases for dependants) or section 106(a) (unemployability supplement) of that Act, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family.

(2) If the claimant is in receipt of any pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006(a), any increase in the rate of that pension or allowance under that Order, where the dependant in respect of whom the increase is paid is not a member of the claimant’s family. ”.
- (4) In Schedule 9 (capital to be disregarded), in paragraph 54, for “war pension within the meaning in section 25 of the Social Security Act 1989” substitute “war disablement pension, war widow’s pension or war widower’s pension”.

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

9th December 2008

Rosie Winterton,
Department for Work and Pensions

(a) S.I. 2006/606.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Support (General) Regulations 1987, the Jobseeker's Allowance Regulations 1996, the State Pension Credit Regulations 2002, the Housing Benefit Regulations 2006, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, the Council Tax Benefit Regulations 2006, the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006, the Housing Benefit and Council Tax Benefit (War Pension Disregards) Regulations 2007 and the Employment and Support Allowance Regulations 2008.

The main purpose of these Regulations is to align, where possible, the income and capital disregard provisions in the means-tested social security benefits, to ensure a consistent approach to means tests across the legislation referred to above.

These Regulations also introduce a new disregard to enable the £10 war pensions disregard to continue to apply where the amount of war pension has been abated to less than £10 by an Armed Forces Pension Scheme payment.

These Regulations also make minor technical amendments, update some outdated references and revoke some redundant provisions from the Regulations referred to above.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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2008 No. 3157

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) (No. 7)
Regulations 2008

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