

2009 No. 609

SOCIAL SECURITY

The Social Security (Transitional Payments) Regulations 2009

<i>Made</i>	- - - -	<i>9th March 2009</i>
<i>Laid before Parliament</i>		<i>16th March 2009</i>
<i>Coming into force</i>	- -	<i>6th April 2009</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of powers conferred by sections 5(1)(i), 189(1) and (3) to (6) and 191 of the Social Security Administration Act 1992(a).

In accordance with section 172(1) of the Social Security Administration Act 1992, the Secretary of State has referred these Regulations to the Social Security Advisory Committee.

Citation and commencement

1. These Regulations may be cited as the Social Security (Transitional Payments) Regulations 2009 and shall come into force on 6th April 2009.

Transitional payment

2.—(1) This regulation applies where in accordance with regulation 22A(4) of, (bereavement benefits) and paragraph 2ZA of Schedule 7, (time of payment) to the Social Security (Claims and Payments) Regulations 1987(b) the Secretary of State changes the manner in which a benefit mentioned in paragraph (2) is paid from weekly payments in advance to weekly payments in arrears.

(2) The benefits are income support, widowed mother's allowance, widowed parent's allowance and widow's pension.

(3) Where this regulation applies, a person shall be entitled to a transitional payment determined in accordance with paragraph (4).

(4) The amount of the transitional payment shall be equivalent to the gross amount of benefit payable in respect of the last 7 days for which benefit was payable in advance.

(5) In paragraph (4), "the gross amount" means the amount of weekly benefit payable to a person before any deductions have been made—

- (a) under regulation 34A (deductions of mortgage interest which shall be made from benefit and paid to qualified lenders), 34B (deductions of mortgage interest which may be made

(a) 1992 c.5. Section 189(1) was amended by the Social Security Act 1998 (c.14), Schedule 7, paragraph 109(a) and Schedule 8, by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2), Schedule 3, paragraph 57(1) and (2) and by the Tax Credits Act 2002 (c.21), Schedule 6. Section 189(4) to (6) was amended by the Social Security Act 1998, Schedule 7, paragraph 109(c) to (e) and Schedule 8. Section 191 is cited for the meaning ascribed to the word "prescribe".

(b) S.I. 1987/1968. Regulation 22A and paragraph 2ZA of Schedule 7 were inserted by S.I. 2009/xxxx.

from benefits and paid to qualified lenders in other cases) or 35 (deductions which may be made from benefit and paid to third parties) of the Social Security (Claims and Payments) Regulations 1987(a); or

- (b) in respect of overpayment recovery or recovery of social fund loans under section 71 (overpayments-general), 74 (income support and other payments) or 78 (recovery of social fund awards) of the Social Security Administration Act 1992(b).

Adjusting payment of benefit

3.—(1) This regulation applies where in accordance with regulations 22A(1), (bereavement benefits) 24(1) of, (incapacity benefit, maternity allowance and severe disablement allowance) and paragraphs 1, 3(1A) and 3(2) of Schedule 7, (time of payment) to the Social Security (Claims and Payments) Regulations 1987(c) the Secretary of State changes the manner in which a benefit mentioned in paragraph (2) is paid from weekly payments in arrears to fortnightly payments in arrears.

(2) The benefits are incapacity benefit, income support, severe disablement allowance, widowed mother's allowance, widowed parent's allowance and widow's pension.

(3) Subject to paragraph (6), where this regulation applies, a person shall be entitled, on making a request to the Secretary of State, to an adjusting payment of benefit determined in accordance with paragraph (5).

(4) A request under paragraph (3) may only be made on a day before the day on which the first fortnightly payment is due.

(5) The amount of the adjusting payment of benefit shall be the person's net weekly benefit payable in respect of the last period of 7 days for which benefit was payable weekly in arrears, rounded up so as to be divisible by 12.

(6) The Secretary of State shall not pay an adjusting payment of benefit where a person's net weekly benefit is less than £4.00 in respect of the period of 7 days ending on the payday which the Secretary of State has indicated will be the final payday for the purposes of paying the person at weekly intervals.

(7) In paragraphs (5) and (6), "net weekly benefit" means the amount of weekly benefit payable to a person after any deductions have been made—

- (a) under regulation 34A, 34B or 35 of the Social Security (Claims and Payments) Regulations 1987; or
- (b) in respect of overpayment recovery or recovery of social fund loans under section 71, 74 or 78 of the Social Security Administration Act 1992.

Adjustment of subsequent payments following an adjusting payment of benefit

4.—(1) Subject to paragraph (5), where an adjusting payment of benefit is made under regulation 3, the amount of that payment shall be recovered by means of an adjustment in subsequent payments of benefit in accordance with paragraphs (2) to (4).

(2) A person's benefit payments shall be adjusted over a period of 12 consecutive weeks ("the adjustment period").

(a) S.I.1987/1968. The relevant amending instruments are S.I. 1988/522, 1992/1026, 2001/18, 2002/2441, 2002/3019 and 2002/3197.

(b) The relevant amending Acts for section 71 are the Jobseekers Act 1995 (c.18), section 32, Schedule 2, paragraph 48, the Social Security (Overpayments) Act 1996 (c.51), section 1, the Tax Credits Act 2002 (c.21), Schedule 4, paragraphs 1 and 2, the Civil Partnership Act 2004 (c.33), Schedule 24, paragraph 58, the Welfare Reform Act 2007 (c.5), section 44, Schedule 3, paragraph 10(6) and Schedule 8 and by S.I. 2008/2833, Schedule 3, paragraph 103. Section 74 was amended by the Jobseekers Act 1995, Schedule 2, paragraph 50, the State Pension Credit Act 2002 (c.16), Schedule 2, paragraphs 8 and 11, by the Welfare Reform Act 2007 (c.5), Schedule 3, paragraph 10 and by S.I. 2008/2428. Section 78 was amended by the Jobseekers Act 1995 sections 32, 41 and Schedule 2, paragraph 51 and by the Civil Partnership Act 2004, Schedule 24 and paragraph 61.

(c) Regulation 24(1) was substituted by S.I. 1994/2943 and amended by 1996/1460, 2000/3120 and 2002/2441. Paragraph 1 of Schedule 7 was substituted by S.I. 2006/832 and paragraph 3(1A) of Schedule 7 was inserted by S.I. 1994/2943.

(3) The first payment from which an adjusting payment of benefit shall be recovered is the payment that is due on the second occasion on which the person is due to receive payment of benefit at fortnightly intervals.

(4) The amount by which the person's weekly benefit is to be reduced on each occasion during the adjustment period shall be $\frac{1}{12}$ of the adjusting payment of benefit.

(5) The Secretary of State may in any particular case or class of case recover the whole of an adjusting payment of benefit, or the residue of it if partly recovered, by adjusting subsequent payments of the same benefit over any period of time.

Signed by authority of the Secretary for Work and Pensions

9th March 2009

Tony McNulty
Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the payment of a one-off transitional payment and an adjusting payment of benefit.

Regulation 2 provides for a one-off transitional payment to be made where payments to persons in receipt of income support, widowed mother's allowance, widowed parent's allowance and widow's pension are changed from weekly in advance to weekly in arrears.

Regulation 3 makes provision for an adjusting payment of benefit to be made where payments to persons in receipt of incapacity benefit, income support, severe disablement allowance, widowed mother's allowance, widowed parent's allowance and widow's pension are changed from weekly in arrears to fortnightly in arrears.

Regulation 4 makes provision for the recovery of an adjusting payment of benefit.

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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