

**2010 No. 641**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous Amendments) (No. 2)  
Regulations 2010**

*Made* - - - - *7th March 2010*

*Laid before Parliament* *11th March 2010*

*Coming into force in accordance with regulation 1*

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

—sections 123(1)(a), (d) and (e), 130(2), 131(3), 135(1), 136(3) and (5), 136A(2) and (3), 137(1) and (2)(d), (f) and (i), 138(1)(a) and (4) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a),

—sections 5(1)(h), 6(1)(h), and 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(b),

—sections 3(1)(f)(iii), 3A(1)(e)(ii), 4(5), 12(4)(a) to (c), 20B(4) and (6), 35(1) and 36(2) and (4) and paragraphs 1(2)(b) and 8A(1) of Schedule 1 to the Jobseekers Act 1995(c),

—section 29 and paragraph 8 of Schedule 1 to the Social Security (Recovery of Benefits) Act 1997(d),

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- (a) 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 130(2) was amended by paragraph 3 of Schedule 9 to the Local Government Finance Act 1992, section 96(2) of the Local Government Act 2000 (c. 22) and paragraph 1(1) and (3) of Schedule 5 to the Welfare Reform Act 2007 (c. 5). Section 131 was substituted by paragraph 4 of Schedule 9 of the Local Government Finance Act 1992. Section 136A was inserted by paragraphs 1 and 3 of Schedule 2 to the State Pension Credit Act 2002 (c. 16). Section 137(1) and 138(4) are interpretation provisions, cited because of the meaning given to the word “prescribed”. Section 137(2)(d) was substituted by paragraph 35(3) of Schedule 2 to the Jobseekers Act 1995 (c. 18). Section 138(1) was substituted by section 70(1) of the Social Security Act 1998 (c. 14). Section 175(1) and (4) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
- (b) 1992 c. 5. Section 189(1), (4) and (5) was amended by paragraph 109 of Schedule 7 and Schedule 8 to the Social Security Act 1998. Section 189(1) was also amended by paragraph 57(1) and (2) of Schedule 3 to the Social Security (Transfer of Functions, etc.) Act 1999 and Schedule 6 to the Tax Credits Act 2002 (c. 21). Section 191 is an interpretation provision and is cited because of the meaning given to the word “prescribe”.
- (c) 1995 c. 18. Section 3A was inserted by paragraphs 4 and 6 of Schedule 7 to the Welfare Reform and Pensions Act 1999 (c. 30) (“the 1999 Act”). Section 20B was inserted by paragraph 13 of Schedule 7 to the 1999 Act. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”. Section 36(4) was amended by paragraph 63 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999. Paragraph 8A(1) of Schedule 1 was inserted by paragraph 16(1) and (2) of Schedule 7 to the 1999 Act.
- (d) 1997 c. 27. Paragraph 8 of Schedule 1 applies to lump sum payments by virtue of section 1A(4)(b) of the Social Security (Recovery of Benefits) Act 1997, which was inserted by section 54 of the Child Maintenance and Other Payments Act 2008 (c. 6). Section 29 is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.

—sections 2(3)(b), 7(7)(a), 15(1)(f), (6)(a) and (b) and 17(1) of the State Pension Credit Act 2002(a), and

—sections 4(2), 17(1) and (3)(a) and (b), 24(1) and 25(2), (3) and (5) of the Welfare Reform Act 2007(b).

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

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(d).

### **Citation and commencement**

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 2) Regulations 2010 and subject to paragraphs (2) to (4) come into force on 6th April 2010.

(2) This regulation comes into force on 1st April 2010.

(3) The following provisions come into force on 5th April 2010 in relation to any case where rent is payable at intervals of a week or any multiple of whole weeks, and in any other case on 1st April 2010—

- (a) regulation 8(1) to (3), (5) to (8) and (10) to (12),
- (b) regulation 9(1) to (3) and (5),
- (c) regulation 10(1) to (3), (5) to (8) and (10) to (12), and
- (d) regulation 11(1) to (3) and (5).

(4) The following provisions come into force on 13th April 2010—

- (a) regulation 2(9),
- (b) regulation 4(11), and
- (c) regulation 6(4) and (5).

### **Amendments to the Income Support (General) Regulations 1987**

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

(2) In regulation 2(1) (interpretation) at the appropriate place insert the following definition—

““MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products ;”.

(3) In—

- (a) regulation 2(1) in the definition of “qualifying person”(f),
- (b) regulation 42(4ZA)(a)(g) (notional income),
- (c) regulation 48(10)(c)(h) (income treated as capital),

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(a) 2002 c. 16. Section 17(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”.  
(b) 2007 c. 5. Section 24(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.  
(c) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992.  
(d) See section 176(1) of the Social Security Administration Act 1992.  
(e) S.I. 1987/1967.  
(f) Inserted by S.I. 1992/1101. Relevant amending instruments are S.I. 2004/1141 and 2005/3391.  
(g) Inserted by S.I. 1998/2117. Relevant amending instrument is 2008/2767.  
(h) Relevant amending instruments are S.I. 1990/127, 1991/1175, 1992/1101, 1993/1249, 963 and 2008/2767.

- (d) regulation 51(3A)(a)(a) (notional capital),
- (e) Schedule 3 (housing costs), paragraph 18(8)(b)(b),
- (f) Schedule 9 (sums to be disregarded in the calculation of income other than earnings), paragraph 21(2)(c) and 39(1)(d) and (7)(e), and
- (g) Schedule 10 (capital to be disregarded), paragraph 22(1)(f) and (7)(g),

after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 6(1)(c) (persons not treated as engaged in remunerative work) after “earnings)” insert—

“and in this paragraph “volunteer” means a person who is engaged in voluntary work, otherwise than for a relative, where the only payment received, or due to be paid to the person by virtue of being so engaged, is in respect of any expenses reasonably incurred by the person in connection with that work”.

(5) In regulation 13(2)(dd)(h) (circumstances in which persons in relevant education are to be entitled to income support) after “and families)” insert “or Part II of the Children (Scotland) Act 1995(i) (promotion of children’s welfare by local authorities and by children’s hearings etc)”.

(6) In regulation 42 in—

- (a) paragraph (2)(g)(j) for “is aged under 60”, substitute “has not attained the qualifying age for state pension credit”,
- (b) paragraph (2ZA)(k) for “age of 60”, substitute “qualifying age for state pension credit”,
- (c) paragraph (2A)(l) for “aged not less than 60”, substitute “who has attained the qualifying age for state pension credit”.

(7) In—

- (a) regulation 42(4ZA)(a),
- (b) regulation 48(10)(c),
- (c) regulation 51(3A)(a),
- (d) Schedule 3, paragraph 18(8)(b),
- (e) Schedule 9, paragraph 39(1) to (5), and
- (f) Schedule 10, paragraphs 22(1) to (5) and 29(m),

after “under” insert “or by”.

(8) In regulation 51(2)(da)(n) for “is aged under 60”, substitute “has not attained the qualifying age for state pension credit”.

(9) In Schedule 2 (applicable amounts), paragraph 1(3)(a)(ii), paragraph 1(3)(e)(i), paragraph 1(3)(f)(i) and paragraph 1(3)(g)(i)(o), after “regulation 4ZA” insert “or income-related employment and support allowance”.

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- (a) Inserted by S.I. 1998/2117. Relevant amending instruments are S.I. 2004/2308 and 2005/3391.
  - (b) Schedule 3 substituted by S.I. 1995/1613. Relevant amending instrument is S.I. 2008/2767.
  - (c) Substituted by S.I. 1988/663. Relevant amending instruments are S.I. 1988/999, 1990/127, 1991/1175, 1992/1101, 1993/963, 1249 and 2008/2767.
  - (d) Paragraph 39 was inserted by S.I. 1988/663 and substituted by S.I. 1991/1175. Relevant amending instruments are S.I. 1992/1101, 1993/963, 1249 and 2008/2767.
  - (e) Inserted by S.I. 1992/1101. Relevant amending instruments are S.I. 2004/2308 and 2005/3391.
  - (f) Paragraph 22 was inserted by S.I. 1988/663 and substituted by S.I. 1991/1175. Relevant amending instruments are S.I. 1992/1101, 1993/1249, 2004/1141, 2005/3391 and 2008/2767.
  - (g) Inserted by S.I. 1992/1101. Relevant amending instruments are S.I. 2004/1141 and 2005/3391.
  - (h) Inserted by S.I. 1992/468.
  - (i) 1995 c. 36.
  - (j) Inserted by S.I. 1995/2303. Relevant amending instruments are S.I. 2005/2465, 2006/588 and 2007/1749.
  - (k) Inserted by S.I. 2005/2465. Relevant amending instruments are S.I. 2006/588 and 2007/1749.
  - (l) Inserted by S.I. 1995/2303. Substituted by S.I. 2007/1749.
  - (m) Inserted by S.I. 1988/1445. Relevant amending instruments are S.I. 1990/127, 1992/1101, 1993/963, 2007/2538 and 2008/2767.
  - (n) Inserted by S.I. 2005/2465. Relevant amending instrument is S.I. 2006/588.
  - (o) Relevant amending instrument is S.I. 2009/497.

(10) In Schedule 9, paragraph 58(a) and Schedule 10, paragraph 67(b) after “1968” insert “, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)(c)”.

(11) In Schedule 10, paragraph 29 after “the Fund” insert “, MFET Limited”.

### **Amendments to the Social Security (Claims and Payments) Regulations 1987**

**3.** In the Social Security (Claims and Payments) Regulations 1987(d) in regulation 7(4)(e) (evidence and information) for “is aged not less than 60”, substitute “has attained the qualifying age”.

### **Amendments to the Jobseeker’s Allowance Regulations 1996**

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

(2) In regulation 1(3) (citation, commencement and interpretation)—

(a) at the appropriate place insert the following definition—

““MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;”;

(b) in the definition of “full-time student”(g)—

(i) in each place where it occurs, for “undertaking” substitute “attending or undertaking”, and

(ii) in paragraph (b)(i) after “attending” insert “or undertaking”.

(3) In—

(a) regulation 1(3) in the definition of “qualifying person”(h),

(b) regulation 105(10A)(a)(i) (notional income),

(c) regulation 110(10)(c)(j) (income treated as capital),

(d) regulation 113(3A)(a)(k) (notional capital),

(e) Schedule 2 (housing costs) in paragraph 17(8)(b)(l),

(f) Schedule 7 (sums to be disregarded in the calculation of income other than earnings), paragraph 22(2)(m), and

(g) Schedule 8 (capital to be disregarded), paragraphs 27(1)(n) and 31,

after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 3E(2)(i)(o) (entitlement of a member of a joint-claim couple to a jobseeker’s allowance without a claim being made jointly by the couple) for “seven weeks after the date on which the pregnancy ends where the expected week of confinement begins prior to 6th April 2003

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(a) Inserted by S.I. 1997/65. Relevant amending instruments are S.I. 2003/762 (in relation to England), 2004/1748 (in relation to Wales) and 2009/583.

(b) Inserted by S.I. 2003/2279. Relevant amending instrument is S.I. 2009/583.

(c) 2006 c. 4. Sections 12A to 12D were inserted by the section 11 of the Health Act 2009 (c. 21).

(d) S.I. 1987/1968.

(e) Inserted by S.I. 1995/2303. Relevant amending instruments are S.I. 1996/1460, 1999/2572, 2002/3019 and 2008/1554.

(f) S.I. 1996/207.

(g) Relevant amending instruments are S.I. 1996/1516, 2001/1434, 2319 and 2008/3157.

(h) Relevant amending instruments are S.I. 2004/1141 and 2005/3391.

(i) Inserted by S.I. 1998/2117. Relevant amending instrument is S.I. 2008/2767.

(j) Relevant amending instrument is S.I. 2008/2767.

(k) Inserted by S.I. 1998/2117. Relevant amending instruments are S.I. 2004/2308, 2005/3391 and 2008/2767.

(l) Relevant amending instrument is S.I. 2008/2767.

(m) Relevant amending instrument is S.I. 2008/2767.

(n) Relevant amending instruments are S.I. 2004/1141, 2005/3391 and 2008/2767.

(o) Inserted by S.I. 2000/1978. Relevant amending instrument is S.I. 2002/2689.

or fifteen weeks after the date on which her pregnancy ends where the expected week of confinement begins on or after 6th April 2003”, substitute “twenty eight weeks after the date on which the pregnancy ends”.

(5) In regulation 53(a) (persons treated as not engaged in remunerative work) after “earnings)” insert—

“and in this paragraph “volunteer” means a person who is engaged in voluntary work, otherwise than for a relative, where the only payment received, or due to be paid to the person by virtue of being so engaged, is in respect of any expenses reasonably incurred by the person in connection with that work”.

(6) In regulation 57(4)(a) (interpretation of Part IV), subject to paragraph (14) below, omit—

- (a) “Paragraph 10 (disabled students)”,
- (b) “Paragraph 12”, and
- (c) “Paragraph 13 (blind persons)”.

(7) In regulation 105 in—

- (a) paragraph (2)(g)(a) for “is aged under 60”, substitute “has not attained the qualifying age for state pension credit”;
- (b) paragraph (2B)(b) for “age of 60”, substitute “qualifying age for state pension credit”;
- (c) paragraph (3)(c) for “aged not less than 60”, substitute “who has attained the qualifying age for state pension credit”.

(8) In—

- (a) regulation 105(10A)(a),
- (b) regulation 110(10)(c),
- (c) regulation 113(3A)(a),
- (d) Schedule 2, paragraph 17(8)(b),
- (e) Schedule 7, paragraph 41(1) to (5)(d), and
- (f) Schedule 8, paragraphs 27(1) to (5) and 31,

after “under” insert “or by”.

(9) In regulation 113(2)(da)(e) for “is aged under 60”, substitute “has not attained the qualifying age for state pension credit”.

(10) In regulation 130 (interpretation) at the appropriate place insert—

““last day of the course” means the date on which the last day of the final academic term falls in respect of the course in which the student is enrolled;”.

(11) For regulation 146G(1)(f) (applicable amount in hardship cases for joint-claim couples), substitute—

“(1) The weekly applicable amount of the joint-claim couple to whom a joint-claim jobseeker’s allowance is payable in accordance with this Part of these Regulations shall be reduced by a sum equivalent to—

- (a) 20% of the amount specified in paragraph 1(1)(e) of Schedule 1 in a case where a member of a joint-claim couple is—
  - (i) either pregnant or seriously ill, or
  - (ii) a member of a polygamous marriage and one of the members of that marriage is pregnant or seriously ill, or

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(a) Relevant amending instrument is S.I. 2006/588.

(b) Inserted by S.I. 2005/2465. Relevant amending instrument is S.I. 2006/588.

(c) Relevant amending instrument is S.I. 2007/1749.

(d) Relevant amending instrument is S.I. 2008/2767.

(e) Inserted by S.I. 2005/2465. Relevant amending instrument is S.I. 2006/588.

(f) Inserted by S.I. 2000/1978.

(b) 40% of the amount specified in paragraph 1(1)(e) of Schedule 1 in all other cases.”

(12) In Schedule 7, paragraph 41—

(a) in sub-paragraph (1), after “(“the Trusts”)”, and

(b) in sub-paragraph (7)(a), after “Skipton Fund”,

insert “, MFET Limited”.

(13) In Schedule 7, paragraph 56(b) and Schedule 8, paragraph 60(c), after “1968” insert “, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)(d)”.

(14) The provisions omitted by paragraph (6) continue to have effect in relation to a person referred to in regulation 2(2) of the Income Support (Prescribed Categories of Person) Regulations 2009(e).

### **Amendment to the Social Security (Recovery of Benefits) Regulations 1997**

5. In the Social Security (Recovery of Benefits) Regulations 1997(f) in regulation 2(2) (exempted trusts and payments) after sub-paragraph (k)(g) add,

“(l) any payment made by MFET Limited, a company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products .”.

### **Amendments to the State Pension Credit Regulations 2002**

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

(2) In regulation 1(2) (interpretation) at the appropriate places insert the following definitions—

““foreign state retirement pension” means any pension which is paid under the law of a country outside the United Kingdom and is in the nature of social security;”;

““MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;”.

(3) In—

(a) regulation 1(2) in the definition of “qualifying person”(i),

(b) Schedule II (housing costs) in paragraph 14(8)(b)(j), and

(c) Schedule V (income from capital) in paragraph 15(1)(k) and (7)(l),

after “the Eileen Trust” insert “, MFET Limited”.

(4) The provisions of regulation 11 (retirement provision in assessed income period) become paragraph (1) of that regulation, and after that paragraph (as renumbered) add—

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(a) Inserted by S.I. 2004/2308. Relevant amending instrument is S.I. 2005/3391.

(b) Inserted by S.I. 1997/65. Relevant amending instruments are S.I. 2003/762 (in relation to England), 2004/1748 (in relation to Wales) and 2009/583.

(c) Inserted by S.I. 2003/2279. Relevant amending instrument is S.I. 2009/583.

(d) 2006 c. 4. Sections 12A to 12D were inserted by the section 11 of the Health Act 2009 (c. 21).

(e) S.I. 2009/3152.

(f) S.I. 1997/2205.

(g) Inserted by S.I. 2005/3391.

(h) S.I. 2002/1792.

(i) Relevant amending instruments are S.I. 2004/1141 and 2005/3391.

(j) Relevant amending instrument is S.I. 2008/2767.

(k) Relevant amending instruments are S.I. 2004/1141, 2005/3391 and 2008/2767.

(l) Relevant amending instruments are S.I. 2004/1141 and 2005/3391.

“(2) For the purposes of section 7(6) (meaning of retirement provision) of the Act, a foreign state retirement pension is to be treated as a benefit under the 1992 Act.”.

(5) For regulation 15(2) (income for the purposes of the Act), substitute—

“(2) For the purposes of section 15(1)(f) (foreign social security benefits) of the Act, income includes—

- (a) all foreign social security benefits which are similar to the social security benefits prescribed under paragraph (1), and
- (b) any foreign state retirement pension.”.

(6) In regulation 18(2) (notional income) for “aged not less than 60”, substitute “who has attained the qualifying age”.

(7) In Schedule V, paragraph 15(1) to (5) after “under” insert “or by”.

### **Amendment to the Social Fund Maternity and Funeral Expenses (General) Regulations 2005**

7. In the Social Fund Maternity and Funeral Expenses (General) Regulations 2005(a) in regulation 10 (deductions from an award of a funeral payment)—

(a) in paragraph (2)—

- (i) after “under” insert “or by”;
- (ii) omit “or” at the end of sub-paragraph (g);
- (iii) after sub-paragraph (h) add—

“or

- (i) MFET Limited,”;

(b) in paragraph (3) after “Eileen Trust” insert “, MFET Limited”.

### **Amendments to the Housing Benefit Regulations 2006**

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

(2) In regulation 2(1) (interpretation) at the appropriate places insert the following definitions—

““MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products ;”;

““special account” means an account as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker’s Allowance Regulations or Chapter 5 of Part 10 of the Employment and Support Allowance Regulations;”.

(3) In—

- (a) regulation 2(1) in the definition of “qualifying person”,
- (b) regulation 42(7)(a)(c) (notional income),
- (c) regulation 46(6)(d) (income treated as capital),
- (d) regulation 49(4)(a)(e) (notional capital),
- (e) regulation 74(9)(b)(f) (non-dependant deductions),
- (f) regulation 86(4)(a)(ii) (evidence and information),

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(a) S.I. 2005/3061. Relevant amending instrument is S.I. 2005/3391.

(b) S.I. 2006/213.

(c) Relevant amending instrument is S.I. 2008/2767.

(d) Relevant amending instrument is S.I. 2008/2767.

(e) Relevant amending instrument is S.I. 2008/2767.

(f) Substituted by 2007/2878. Relevant amending instrument is S.I. 2008/2767.

(g) Schedule 5 (sums to be disregarded in the calculation of income other than earnings), paragraph 35(1)(a) and (7)(b), and

(h) Schedule 6 (capital to be disregarded), paragraph 24(1)(c) and (7),  
after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 42(2)(c)(d) for “is aged under 60”, substitute “has not attained the qualifying age for state pension credit”.

(5) In—

(a) regulation 42(7)(a),

(b) regulation 46(6),

(c) regulation 49(4)(a),

(d) regulation 74(9)(b),

(e) regulation 86(4)(a)(ii),

(f) Schedule 5, paragraph 35(1) to (5), and

(g) Schedule 6, paragraphs 24(1) to (5) and 34(e),

after “under” insert “or by”.

(6) In regulation 46(7) omit “(as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker’s Allowance Regulations)”.

(7) In regulation 56(2A)(f) (full-time students to be treated as not liable to make payments in respect of a dwelling) after “begun” insert “, or been enrolled or accepted onto,”.

(8) In regulation 74(6)(a) for “of the higher pensioner and disability premiums”, substitute “for the disability premium”.

(9) In regulation 86(5)(g) for “is aged not less than 60”, substitute “has attained the qualifying age for state pension credit”.

(10) In Schedule 5—

(a) in paragraph 13(1)(a) for “or severe disablement allowance”, substitute “, severe disablement allowance or an employment and support allowance”, and

(b) in paragraph 58(2) omit “as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker’s Allowance Regulations”.

(11) In Schedule 5, paragraph 57(h) and Schedule 6, paragraph 58(i) after “1968” insert “, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)(j)”.

(12) In Schedule 6, paragraph 34 after “the Fund” insert “, MFET Limited”.

### **Amendments to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

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

(2) In regulation 2(1) (interpretation) at the appropriate place insert the following definition—

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(a) Relevant amending instrument is S.I. 2008/2767.

(b) Relevant amending instrument is S.I. 2008/3157.

(c) Relevant amending instrument is S.I. 2008/2767.

(d) Relevant amending instruments are S.I. 2006/588 and 2007/1749.

(e) Relevant amending instruments are S.I. 2007/2538 and 2008/2767.

(f) Inserted by S.I. 2009/583.

(g) Relevant amending instrument is S.I. 2007/1749.

(h) Relevant amending instrument is S.I. 2009/583.

(i) Relevant amending instrument is S.I. 2009/583.

(j) 2006 c. 2006. Sections 12A to 12D were inserted by the section 11 of the Health Act 2009 (c. 21).

(k) S.I. 2006/214.



“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;”.

(3) In—

- (a) regulation 2(1) in the definition of “qualifying person”,
- (b) regulation 55(10)(b)(a) (non-dependant deductions),
- (c) regulation 67(4)(a)(ii)(b) (evidence and information), and
- (d) Schedule 6 (capital to be disregarded), paragraph 16(1)(a),

after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 41(4)(c) (notional income) for “aged not less than 60”, substitute “who has attained the qualifying age for state pension credit”.

(5) In—

- (a) regulation 55(10)(b),
- (b) regulation 67(4)(a)(ii), and
- (c) Schedule 6, paragraph 16(1) to (5),

after “under” insert “or by”.

(6) In regulation 67(5) for “is aged not less than 60”, substitute “has attained the qualifying age for state pension credit”.

#### **Amendments to the Council Tax Benefit Regulations 2006**

**10.—**(1) The Council Tax Benefit Regulations 2006(d) are amended as follows.

(2) In regulation 2(1) (interpretation) at the appropriate places insert the following definitions—

“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products ;”;

“special account” means an account as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker’s Allowance Regulations or Chapter 5 of Part 10 of the Employment and Support Allowance Regulations;”.

(3) In—

- (a) regulation 2(1) in the definition of “qualifying person”,
- (b) regulation 32(7)(a)(e) (notional income),
- (c) regulation 36(6)(f) (income treated as capital),
- (d) regulation 39(4)(a)(g) (notional capital),
- (e) regulation 58(9)(b)(h) (non-dependant deductions),
- (f) regulation 72(4)(a)(ii) (evidence and information),
- (g) Schedule 2 (amount of alternative maximum council tax benefit), paragraph 2(b)(i),

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(a) Substituted by S.I. 2007/2869. Relevant amending instrument is S.I. 2008/2767.

(b) Relevant amending instrument is S.I. 2008/1042.

(c) Substituted by S.I. 2007/1749.

(d) S.I. 2006/215.

(e) Relevant amending instrument is S.I. 2008/2767.

(f) Relevant amending instrument is S.I. 2008/2767.

(g) Relevant amending instrument is S.I. 2008/2767.

(h) Relevant amending instrument is S.I. 2008/2767.

(i) Relevant amending instrument is S.I. 2008/2767.

- (h) Schedule 4 (sums to be disregarded in the calculation of income other than earnings), paragraph 36(1)(a) and (7), and
- (i) Schedule 5 (capital to be disregarded), paragraph 24(1)(b) and (7),

after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 32(2)(c)(e) for “is aged under 60” substitute “has not attained the qualifying age for state pension credit”.

(5) In—

- (a) regulation 32(7)(a),
- (b) regulation 36(6),
- (c) regulation 39(4)(a),
- (d) regulation 58(9)(b),
- (e) regulation 72(4)(a)(ii),
- (f) Schedule 2, paragraph 2(b),
- (g) Schedule 4, paragraph 36(1) to (5), and
- (h) Schedule 5, paragraphs 24(1) to (5) and 34(d),

after “under” insert “or by”.

(6) In regulation 36(7) omit “(as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker’s Allowance Regulations)”.

(7) In regulation 45(3A)(e) (students who are excluded from entitlement to council tax benefit) after “begun” insert “, or been enrolled or accepted onto”.

(8) In regulation 58(6)(a) for “of the higher pensioner and disability premiums”, substitute “for the disability premium”.

(9) In regulation 72(5)(f) for “is aged not less than 60”, substitute “has attained the qualifying age for state pension credit”.

(10) In Schedule 4—

- (a) in paragraph 14(1)(a) for “or severe disablement allowance”, substitute “, severe disablement allowance or an employment and support allowance”;
- (b) in paragraph 58(2) omit “as defined for the purposes of Chapter 4A of Part 8 of the Jobseeker’s Allowance Regulations”.

(11) In Schedule 4, paragraph 57(g) and Schedule 5, paragraph 60(h) after “1968” insert “, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)(i)”.

(12) In Schedule 5, paragraph 34 after “the Fund” insert “, MFET Limited”.

### **Amendments to the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

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

(2) In regulation 2(1) (interpretation) at the appropriate place insert the following definition—

- 
- (a) Relevant amending instrument is S.I. 2008/2767.
  - (b) Relevant amending instruments are S.I. 2008/2767 and 3157.
  - (c) Relevant amending instruments are S.I. 2005/2465, 2006/217, 588 and 2007/1749.
  - (d) Relevant amending instruments are S.I. 2007/2538 and 2008/2767.
  - (e) Inserted by S.I. 2009/583.
  - (f) Relevant amending instrument is S.I. 2007/1749.
  - (g) Relevant amending instrument is S.I. 2009/583.
  - (h) Relevant amending instrument is S.I. 2009/583.
  - (i) 2006 c. 4. Sections 12A to 12D were inserted by the section 11 of the Health Act 2009 (c. 21).
  - (j) S.I. 2006/216.

“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;”.

(3) In—

- (a) regulation 2(1) in the definition of “qualifying person”,
- (b) regulation 42(9)(b)(a) (non-dependant deductions),
- (c) regulation 57(4)(a) (evidence and information),
- (d) Schedule 4 (capital disregards), paragraph 16(1)(a), and
- (e) Schedule 6 (amount of alternative maximum council tax benefit), paragraph 2(b)(b),

after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 31(4)(c) (notional income), for “aged not less than 60” substitute “who has attained the qualifying age for state pension credit”.

(5) In—

- (a) regulation 42(9)(b),
- (b) regulation 57(4)(a),
- (c) Schedule 4 in paragraph 16(1) to (5), and
- (d) Schedule 6 in paragraph 2(b),

after “under” insert “or by”.

(6) In regulation 57(5)(d) (evidence and information) for “is aged not less than 60”, substitute “has attained the qualifying age for state pension credit”.

## **Amendments to the Employment and Support Allowance Regulations 2008**

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

(2) In regulation 2(1) (interpretation) at the appropriate place insert the following definition—

“MFET Limited” means the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products;”.

(3) In—

- (a) regulation 2(1) in the definition of “qualifying person”,
- (b) regulation 107(5)(a)(f) (notional income - income due to be paid or income paid to or in respect of a third party),
- (c) regulation 112(8)(g) (income treated as capital),
- (d) regulation 115(5)(a)(h) (notional capital),
- (e) Schedule 6 (housing costs), paragraph 19(8)(b)(i),
- (f) Schedule 8 (sums to be disregarded in the calculation of income other than earnings), paragraphs 22(2) and 41(1) and (7)(j), and

- 
- (a) Relevant amending instrument is S.I. 2008/2767.
  - (b) Relevant amending instrument is S.I. 2008/2767.
  - (c) Substituted by S.I. 2007/1749.
  - (d) Relevant amending instrument is S.I. 2007/1749.
  - (e) S.I. 2008/794.
  - (f) Relevant amending instrument is S.I. 2008/2428.
  - (g) Relevant amending instrument is S.I. 2008/2428.
  - (h) Relevant amending instrument is S.I. 2008/2428.
  - (i) Relevant amending instrument is S.I. 2008/2428.
  - (j) Relevant amending instrument is S.I. 2008/2428.

(g) Schedule 9 (capital to be disregarded), paragraphs 27(1)(a) and (7) and 31(b), after “Eileen Trust” insert “, MFET Limited”.

(4) In regulation 106 (notional income – deprivation and income on application)—

- (a) in paragraph (2)(g), for “is aged under 60” substitute “has not attained the qualifying age for state pension credit”,
- (b) in paragraph (3), for “age of 60” substitute “qualifying age for state pension credit”, and
- (c) in paragraph (4), for “aged not less than 60” substitute “who has attained the qualifying age for state pension credit”.

(5) In—

- (a) regulation 107(5)(a),
- (b) regulation 112(8),
- (c) regulation 115(5)(a),
- (d) Schedule 6, paragraph 19(8)(b),
- (e) Schedule 8, paragraph 41(1) to (5), and
- (f) Schedule 9, paragraph 27(1) to (5),

after “under” insert “or by”.

(6) In regulation 115(2)(e), for “is aged under 60” substitute “has not attained the qualifying age for state pension credit”.

(7) In Schedule 8, paragraph 53(c) and Schedule 9, paragraph 56(d) after “1968” insert “, or under sections 12A to 12D of the National Health Service Act 2006 (direct payments for health care)(e)”.

### **Amendment to the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008**

**13.** In the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008(f) in regulation 7(2) (exempted trusts and payments), after sub-paragraph (h)(g) add—

- “(i) any payment made by MFET Limited, the company limited by guarantee (number 7121661) of that name, established for the purpose in particular of making payments in accordance with arrangements made with the Secretary of State to persons who have acquired HIV as a result of treatment by the NHS with blood or blood products.”.

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

*Helen Goodman*  
Parliamentary-Under Secretary of State  
Department for Work and Pensions

7th March 2010

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- (a) Relevant amending instrument is S.I. 2008/2428.
  - (b) Relevant amending instrument is S.I. 2008/2428.
  - (c) Relevant amending instrument is S.I. 2009/583.
  - (d) Relevant amending instrument is S.I. 2009/583.
  - (e) 2006 c. 4. Sections 12A to 12D were inserted by the section 11 of the Health Act 2009 (c. 21).
  - (f) S.I. 2008/1596.
  - (g) Sub-paragraphs (g) and (h) were inserted by S.I. 2009/1494.

## EXPLANATORY NOTE

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

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

Regulation 2 amends the Income Support (General) Regulations 1987 (S.I. 1987/1967) (“the Income Support Regulations”) to:

- provide that where the claimant has a partner aged under 18 who is sick, and the partner claims employment and support allowance rather than income support for their period of sickness, the couple will be eligible for the higher rate, and
- give access to income support for certain young people who have ceased to live in accommodation provided by local authorities in Scotland, to mirror provisions already in place in relation to local authorities in England and Wales.

Regulations 2 and 4 amend the Income Support Regulations and the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207) (“the Jobseeker’s Allowance Regulations”) to introduce a definition of volunteer.

Regulations 2, 4, 6 to 12 amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, the State Pension Credit Regulations 2002 (S.I. 2002/1792) (“the State Pension Credit Regulations”), the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 (S.I. 2005/ 3061), the Housing Benefit Regulations 2006 (S.I. 2006/213) (“the Housing Benefit Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214) (“the Housing Benefit (SPC) Regulations”), the Council Tax Benefit Regulations 2006 (S.I. 2006/215) (“the Council Tax Benefit Regulations”), the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/216) (“the Council Tax Benefit (SPC) Regulations”) and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) (“the Employment and Support Allowance Regulations”) to:

- introduce disregards in respect of payments by “MFET Limited”. MFET Limited is a company limited by guarantee (number 7121661), established and funded by the Secretary of State, for the benefit of persons who have acquired HIV as a result of treatment by the NHS with blood or blood products, and
- insert “or by” to sentences where references to payments “under” various trusts are made, to provide for the fact that MFET Limited is a company rather than a trust.

Regulations 2, 4, 8, 10 and 12 amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, the Housing Benefit Regulations, the Council Benefit Tax Regulations and the Employment and Support Allowance Regulations to introduce a disregard in relation to income and/or capital for direct payments for health care made under the National Health Service Act 2006.

Regulations 2 to 4 and 6, 8 to 12 amend the Income Support Regulations, the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968), the Jobseeker’s Allowance Regulations, the State Pension Credit Regulations, the Housing Benefit Regulations, the Housing Benefit (SPC) Regulations, the Council Tax Benefit Regulations, the Council Tax Benefit (SPC) Regulations, the Employment and Support Allowance Regulations to change references from “60” (years of age) to the “qualifying age” or “qualifying age for state pension credit”, as appropriate, when considering notional income or notional capital, and in relation to the supply of information on income and capital.

Regulation 4 amends the Jobseeker’s Allowance Regulations to:

- amend the definition of “full-time student” to include students attending, as well as undertaking, a course,
- amend the period in which a member of a joint-claim couple will be entitled to jobseeker’s allowance without having to make a joint-claim because she has recently given birth, to be up to 28 weeks after the birth of the child,
- remove references to paragraphs removed from the Income Support Regulations, concerning persons eligible to claim income support rather than jobseeker’s allowance,
- insert an interpretation for “last day of the course” for students, and
- correct a small drafting error in provisions relating to hardship cases for joint-couple claims.

Regulations 5 and 13 amend the Social Security (Recovery of Benefits) Regulations 1997 (S.I. 1997/2205) and the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 (S.I. 2008/1596) to exempt payments made by MFET Limited from the compensation recovery schemes established under the Social Security (Recovery of Benefits) Act 1997 (c. 27).

Regulation 6 amends the State Pension Credit Regulations to provide for foreign state retirement pensions to be treated in the same way as foreign social security benefits.

Regulations 8 and 10 amend the Housing Benefit Regulations and the Council Tax Benefit Regulations to:

- remove otiose references to “higher pensioner” premiums,
- extend the coverage of the second chance learning provision to also include young people under 21, where they were enrolled or accepted onto a course before reaching the age of 19. Second chance learning provision here means educational courses that do not lead to a Higher National Certificate or higher qualification, or equivalent qualifications, and
- bring the treatment of employment and support allowance payments to those claimants who are receiving assistance under the self-employment route, as defined in those Regulations, and training allowance payments as a substitute for employment and support allowance payments, in line with the treatment of other social security benefits.

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

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**SOCIAL SECURITY**

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