

2008 No. 698

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) Regulations
2008**

Made - - - - *11th March 2008*

Laid before Parliament *17th March 2008*

Coming into force in accordance with regulation 1

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

– sections 123(1)(a), (d) and (e), 124(1)(d) and (e), 135(1), 136(3), (5)(a) to (c), 137(1) and (2)(d) and 175(1) to (4) of the Social Security Contributions and Benefits Act 1992(a),

– sections 5(1)(p), 189(1) and (3) to (5) of the Social Security Administration Act 1992(b),

– sections 4(5), 12(2), (4)(a) and (b), 35(1) and 36(1), (2) and (4) and paragraphs 1(2)(a) and 3(b) of Schedule 1 to the Jobseekers Act 1995(c),

– sections 2(3)(b) and (6), 17(1) and 19(1) of the State Pension Credit Act 2002(d).

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

(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 124(1)(e) was inserted by paragraph 30(5) of Schedule 2 to the Jobseeker's Act 1995 (c.18) and amended by section 21 and Schedule 3 of the State Pension Credit Act 2002 (c.16). Section 137(1) is an interpretation provision and is cited because of the meaning there given to the word "prescribed". Section 175(1) and (4) was 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).

(b) 1992 c.5. Section 189(1), (4) and (5) was amended by paragraph 109(a) of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c.14). Section 189(1) was also amended by paragraph 57 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and Schedule 6 to the Tax Credits Act 2002 (c.21).

(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. Section 36(1) was amended by section 70 of and paragraph 29(1) and (6) of Schedule 8 to the Welfare Reform and Pensions Act 1999 (c.30) and section 86(1) of and paragraph 145 of Schedule 7 to the Social Security Act 1998 (c.14).

(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) See sections 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, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 2008 and, subject to paragraphs (2) and (3), shall come into force on 14th April 2008.

(2) This regulation and regulations 2(6), (14)(b) and (15)(c), 4(11), (16)(a) and (17)(b), 6(3), (5)(a) and (6)(b) and 7(3), (5)(a) and (6)(b), 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 7th April 2008.

(3) Regulation 4(14)(a) and (b), in so far as it relates to a particular beneficiary, shall come into force on 7th April 2008, immediately after Article 24(3) of and Schedule 14 to the Social Security Benefits Up-rating Order 2008(b) comes into force.

(4) In paragraph (2), “benefit week” has the same meaning as in—

- (a) regulation 2(1) of the Income Support (General) Regulations 1987(c), so far as it relates to regulations 2(6), (14)(b) and (15)(c);
- (b) regulation 1(3) of the Jobseeker’s Allowance Regulations 1996(d), so far as it relates to regulations 4(11), (16)(a) and (17)(b);
- (c) regulation 2(1) of the Housing Benefit Regulations 2006(e), so far as it relates to regulations 6(3), (5)(a) and (6)(b);
- (d) regulation 2(1) of the Council Tax Benefit Regulations 2006(f), so far as it relates to regulations 7(3), (5)(a) and (6)(b).

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)(g) omit the definition of “Intensive Activity Period for 50 plus”.

(3) In regulation 5(5) (persons treated as engaged in remunerative work)(h) for “35(1)(b) to (d) and (i)” substitute “35(1)(b) and (d)”.

(4) In regulation 13 (circumstances in which persons in relevant education are to be entitled to income support)—

- (a) in paragraph (2)(i) after “a person who” insert “(subject to paragraph (2A))”;
- (b) after paragraph (2) insert—

“(2A) For the purposes of paragraph (2)—

- (a) the eligible person shall be treated as satisfying the condition prescribed in regulation 8 of the Child Benefit (General) Regulations 2006(j) (child benefit not payable in respect of qualifying young person: other financial support);

(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. 2008/632.

(c) S.I. 1987/1967. The definition of “benefit week” was amended by S.I. 1988/1445.

(d) S.I. 1996/207. The definition of “benefit week” was amended by S.I. 1996/1517, 1996/2538, 2006/2378.

(e) S.I. 2006/213.

(f) S.I. 2006/215.

(g) Definition of “Intensive Activity Period for 50 plus” was inserted by S.I. 2001/1029.

(h) Relevant amending instruments are S.I. 1988/2022, 1989/1323, 2007/2618.

(i) Relevant amending instruments are S.I. 1991/1559 and 2006/718.

(j) S.I. 2006/223.

- (b) where sub-paragraphs (c) to (e) apply, the eligible person shall be treated as satisfying the condition prescribed in regulation 5(2)(e) and (f) of the Child Benefit (General) Regulations 2006 (extension period: 16 and 17 year olds).”.
- (5) In regulation 29 (calculation of earnings derived from employed earner’s employment and income other than earnings)—
- (a) for sub-paragraph (2)(a)(a) substitute—
- “(a) where the payment is monthly, a period equal to the number of weeks from the date on which the payment is treated as paid to the date immediately before the date on which the next monthly payment would have been so treated as paid whether or not the next monthly payment is actually paid;
- (aa) where the payment is in respect of a period which is not monthly, a period equal to the length of the period for which payment is made;”;
- (b) omit paragraphs (4B)(b) and (4D)(b)(c).
- (6) In regulation 30 (calculation of earnings of self-employed earners)—
- (a) in paragraph (2), for “royalties or sums paid periodically for or in respect of any copyright” substitute “any items to which paragraph (2A) applies”;
- (b) after that paragraph insert—
- “(2A) This paragraph applies to—
- (a) royalties;
- (b) sums paid periodically for or in respect of any copyright;
- (c) payments in respect of any book registered under the Public Lending Right Scheme 1982.”.
- (7) In regulation 35 (earnings of employed earners)(d) omit paragraphs (1)(i)(i), (1A) and (3)(b).
- (8) In—
- (a) regulation 42(4ZA)(c)(iia) and (6A)(b)(i) (notional income)(e),
- (b) regulation 51(3A)(b)(iia) (notional capital)(f), and
- (c) paragraphs 4(4A)(a), 14(1)(ee)(i), (3B) and (12)(c)(iv) of Schedule 3 (housing costs)(g), omit “or in the Intensive Activity Period for 50 plus”.
- (9) In regulation 48 (income treated as capital)(h) omit paragraph (11).
- (10) In regulation 72(2) (assessment of income and capital in urgent cases)(i) for “Part II of the Social Security and Housing Benefits Act 1982” substitute “Part 7 of the Contributions and Benefits Act”.
- (11) In Schedule 1B (prescribed categories of person)(j) omit paragraphs 26 and 27.
- (12) In paragraph 7(1)(b) of Schedule 2 (applicable amounts)(k) omit “for Employment”.
- (13) In paragraph 14(3ZA)(a) of Schedule 3 (housing costs)(l) omit “, in the Intensive Activity Period for 50 plus”.
- (14) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

(a) Relevant amending instrument is S.I. 1997/65.

(b) Paragraph (4B) was inserted by S.I. 1989/1323 and amended by S.I. 2007/2618.

(c) Sub-paragraph (4D) was inserted by S.I. 1989/1323.

(d) Paragraphs (1)(i)(i) and (1A) were inserted by S.I. 1989/1323. Relevant amending instrument for sub-paragraph (3)(b) is S.I. 2007/2618.

(e) Relevant amending instrument is S.I. 2001/1029.

(f) Relevant amending instrument is S.I. 2001/1029.

(g) Relevant amending instrument is S.I. 2001/1029.

(h) Paragraph (11) was inserted by S.I. 1989/1323.

(i) Relevant amending instruments are S.I. 1988/2022, 1998/563, 1996/2431.

(j) Relevant amending instrument is S.I. 1999/2422.

(k) Relevant amending instrument is S.I. 1991/236.

(l) Paragraph (3ZA) was inserted by S.I. 1997/2863. Relevant amending instruments are S.I. 2000/724, 2001/1029.

(a) in paragraph 4(a) for “of statutory sick pay under Part 1 of the Social Security and Housing Benefits Act 1982 or statutory maternity pay under Part V of the Act, statutory paternity pay under Part 12ZA of the Contributions and Benefits Act, statutory adoption pay under Part” substitute “under Parts 11 to”;

(b) for paragraph 28(b) substitute—

“28.—(1) Any payment made by a local authority in accordance with—

- (a) section 17, 23B, 23C or 24A of the Children Act 1989(c),
- (b) section 12 of the Social Work (Scotland) Act 1968(d), or
- (c) section 29 or 30 of the Children (Scotland) Act 1995(e).

(2) Any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities’ duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the claimant.

(3) Sub-paragraphs (1) and (2) are subject to the following provisions.

(4) Neither of those sub-paragraphs applies where the claimant is a person—

- (a) to whom section 126 of the Contributions and Benefits Act (trade disputes) applies, or
- (b) in respect of whom section 124(1) of the Contributions and Benefits Act (conditions of entitlement to income support) has effect as modified by section 127 of that Act (effect of return to work).

(5) Sub-paragraph (2) applies only where A—

- (a) was formerly in the claimant’s care, and
- (b) is aged 18 or over, and
- (c) continues to live with the claimant.”;

(c) omit paragraphs 41 and 42(f);

(d) for paragraph 46(g) substitute—

“46. Any payment in consequence of a reduction of council tax under section 13 or 80 of the Local Government Finance Act 1992(h) (reduction of liability for council tax).”.

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

(a) in paragraph 7(1)(i), for paragraph (b) substitute—

“(b) an income-related benefit or an income-based jobseeker’s allowance, child tax credit or working tax credit under Part 1 of the Tax Credits Act 2002(j);”;

(b) in paragraph 10 omit “supplementary benefit or”;

(c) for paragraph 17(k) substitute—

“17.—(1) Any payment made by a local authority in accordance with—

- (a) section 17, 23B, 23C or 24A of the Children Act 1989,

(a) Relevant amending instrument is S.I. 2002/2689.

(b) Relevant amending instruments are S.I. 1988/663, 1989/1034, 1992/468, 2001/3070, 2004/1141.

(c) 1989 c.41. Section 23B and 23C were inserted by section 2(1) and (4) of the Children (Leaving Care) Act 2000 (c.35). Section 24A was substituted by section 4(1) of the Children (Leaving Care) Act 2000.

(d) 1968 c.49.

(e) 1995 c.36.

(f) Paragraphs 41 and 42 were inserted by S.I. 1988/2022.

(g) Paragraph 46 was inserted by S.I. 1990/547 and amended by S.I. 1993/315.

(h) 1992 c.14.

(i) Relevant amending instruments for paragraph 7 are S.I. 1996/206, 2003/455.

(j) 2002 c.21.

(k) Relevant amending instruments are S.I. 1988/663, 1992/468, 1999/1034, 2001/3070, 2004/1141.

- (b) section 12 of the Social Work (Scotland) Act 1968, or
- (c) section 29 or 30 of the Children (Scotland) Act 1995.

(2) Any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities' duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person ("A") which A passes on to the claimant.

(3) Sub-paragraphs (1) and (2) are subject to the following provisions.

(4) Neither of those sub-paragraphs applies where the claimant is a person—

- (a) to whom section 126 of the Contributions and Benefits Act (trade disputes) applies, or
- (b) in respect of whom section 124(1) of the Contributions and Benefits Act (conditions of entitlement to income support) has effect as modified by section 127 of that Act (effect of return to work).

(5) Sub-paragraph (2) applies only where A—

- (a) was formerly in the claimant's care, and
- (b) is aged 18 or over, and
- (c) continues to live with the claimant.”;

(d) omit paragraphs 32 and 33(a);

(e) in paragraph 36(b) omit “a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988 or section 9A of the Abolition of Domestic Rates Etc (Scotland) Act 1987 (reduction of liability for personal community charge) or reduction of”.

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

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

(2) In Schedule 9 (deductions from benefit and direct payments to third parties)—

(a) in paragraph 5—

- (i) in paragraph (1)(c)(d) before “he” insert “unless sub-paragraph (1A) applies,”;
- (ii) at the appropriate place insert—

“(1A) This sub-paragraph applies where the rent includes charges for services included under paragraph 4A(1)(d) and the arrears for these services exceed £100.00.”;

- (iii) in sub-paragraph (6)(e) after “(1)” insert “or (1A)”;
- (iv) in sub-paragraph (7)(f) after “(1)” insert “or (1A)”;

(b) in paragraph 7C (eligible loans)(g)—

- (i) in sub-paragraph (1), in the definition of “eligible lender”, at the appropriate place insert—

“(e) a community interest company within the meaning of Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004(h),”;

- (ii) in sub-paragraph (3), for “single borrower” substitute “single claimant” .

(a) Paragraphs 32 and 33 were inserted by S.I. 1988/2022.

(b) Paragraph 36 was inserted by S.I. 1990/547 and amended by S.I. 1993/315.

(c) S.I. 1987/1968.

(d) Relevant amending instrument is S.I. 1999/2860.

(e) Relevant amending instrument is S.I. 1991/2284.

(f) Sub-paragraph (7) was inserted by S.I. 1992/2595 and amended by S.I. 1999/2860, 2006/217, 2007/2870.

(g) Paragraph 7C was inserted by S.I. 2006/3188.

(h) 2004 c.27.

Amendment of the Jobseeker's Allowance Regulations 1996

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

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

- (a) in the definition of “employment zone contractor” omit “for Education and Employment”;
- (b) omit the definition of “Intensive Activity Period for 50 plus”;
- (c) in the definition of “training allowance” omit “for Education and Employment” in both places where it occurs.

(3) In regulation 4 (interpretation of Parts 2, 4 and 5) in the definition of “appropriate office” for “Education and Employment” insert “Work and Pensions”.

(4) In regulation 14(1)(k) (circumstances in which a person is to be treated as available) for “the Secretary of State for the Home Department with the Trust” substitute “the Scottish Ministers”.

(5) In regulation 15(bc) (circumstances in which a person is not to be regarded as available)(b)—

- (a) after “ordinary” insert “or additional”;
- (b) after “75A” insert “or 75B”.

(6) In regulation 19(1)(k) (circumstances in which a person is to be treated as actively seeking employment) for “the Secretary of State for the Home Department with the Trust” substitute “the Scottish Ministers”.

(7) In regulation 48(2)(f)(ii) (linking periods)(c) for “, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) or in the Intensive Activity Period for 50 plus” substitute “or in the Intensive Activity Period specified in regulation 75(1)(a)(iv)”.

(8) In regulation 52(3) (persons treated as engaged in remunerative work)(d) for “98(1)(b) and (c)” substitute “98(1)(c)”.

(9) In regulation 75(4) (interpretation)(e) omit “or the Intensive Activity period for 50 plus”.

(10) For regulation 94(2)(a) (calculation of earnings derived from employed earner's employment and income other than earnings) substitute—

- “(a) where the payment is monthly, a period equal to the number of weeks from the date on which the payment is treated as paid to the date immediately before the date on which the next monthly payment would have been so treated as paid whether or not the next monthly payment is actually paid;
- (aa) where the payment is in respect of a period which is not monthly, a period equal to the length of the period for which payment is made;”.

(11) In regulation 95 (calculation of earnings of self-employed earners)(f)—

- (a) in paragraph (2) for “royalties or sums paid periodically for or in respect of any copyright” substitute “any items to which paragraph (2A) applies”;
- (b) after that paragraph insert—
 - “(2A) This paragraph applies to—
 - (a) royalties;
 - (b) sums paid periodically for or in respect of any copyright;
 - (c) payments in respect of any book registered under the Public Lending Right Scheme 1982.”.

(a) Definition of “Intensive Activity Period for 50 plus” was inserted by S.I. 2001/1029. Definition of “employment zone contractor” was inserted by S.I. 2000/724.

(b) Paragraph (bc) was inserted by S.I. 2002/3072.

(c) Sub-paragraph (2)(f) was inserted by S.I. 1997/2863. Relevant amending instrument is S.I. 2001/1029.

(d) Relevant amending instruments are S.I. 1996/1516, 2007/2618.

(e) Relevant amending instrument is S.I. 2001/1029.

(f) Relevant amending instrument is S.I. 2000/1978.

- (12) In—
- (a) regulation 105(10A)(c)(ia) and (13A)(b)(i) (notional income)(a); and
 - (b) regulation 113(3A)(b)(ia) (notional capital)(b),
- omit “in the Intensive Activity Period for 50 plus or”.
- (13) In regulation 149(2) (assessment of income and capital in urgent cases)(c) omit “or Part II of the Social Security and Housing Benefits Act 1982”.
- (14) In Schedule 1 (applicable amounts)—
- (a) in paragraph 1(3)(e), for the entry in column (1) substitute—
 - “(e) where—
 - (i) both members are aged not less than 18; or
 - (ii) one member is aged not less than 18 and the other member is a person who is—
 - (aa) under 18, and
 - (bb) treated as responsible for a child;”;
 - (b) in paragraph 1(3)(f), after “where” insert “paragraph (e) does not apply and”;
 - (c) in paragraph 8(1)(b)(d) omit “for Education and Employment”.
- (15) In paragraphs 4(4A)(a), 13(1)(ee)(i), (3A)(a) and (14)(c)(iv) of Schedule 2 (housing costs)(e), omit “or in the Intensive Activity Period for 50 plus”.
- (16) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—
- (a) for paragraph 29(f) substitute—
 - “29.—(1) Any payment made by a local authority in accordance with—
 - (a) section 17, 23B, 23C or 24A of the Children Act 1989(g),
 - (b) section 12 of the Social Work (Scotland) Act 1968(h), or
 - (c) section 29 or 30 of the Children (Scotland) Act 1995(i).
 - (2) Any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities’ duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the claimant.
 - (3) Sub-paragraphs (1) and (2) are subject to the following provisions.
 - (4) Neither of those sub-paragraphs applies where the claimant is a person who is, or would be, prevented from being entitled to a jobseeker’s allowance by section 14 (trade disputes).
 - (5) Sub-paragraph (2) applies only where A—
 - (a) was formerly in the claimant’s care, and
 - (b) is aged 18 or over, and

(a) Sub-paragraph (10A)(c)(ia) was inserted by S.I. 2001/1029. Sub-paragraph (13A) was inserted by S.I. 2000/678 and relevant amending instrument is S.I. 2001/1029.

(b) Relevant amending instrument is S.I. 2001/1029.

(c) Relevant amending instruments are S.I. 1996/1516, 1998/563.

(d) Paragraph 8(1)(b) was substituted by S.I. 1996/2538.

(e) Paragraphs 4(4A)(a), 13(1)(ee)(i) and (3A)(a) were inserted by S.I. 1997/2863. Relevant amending instruments are S.I. 2000/1978 and 2001/1029.

(f) Relevant amending instruments are S.I. 2001/3070, 2004/1141.

(g) 1989 c.41. Section 23B and 23C were inserted by section 2(1) and (4) of the Children (Leaving Care) Act 2000 (c.35). Section 24A was substituted by section 4(1) of the Children (Leaving Care) Act 2000.

(h) 1968 c.49.

(i) 1995 c.36.

- (c) continues to live with the claimant.”;
- (b) for paragraph 45 substitute—
 - “45. Any payment in consequence of a reduction of council tax under section 13 or 80 of the Local Government Finance Act 1992(a) (reduction in liability for council tax).”.
- (17) In Schedule 8 (capital to be disregarded)—
 - (a) in paragraph 12(1)(b)(b) omit “working families’ tax credit under section 128 of that Act, disabled person’s tax credit under section 129 of that Act.”;
 - (b) for paragraph 22(c) substitute—
 - “22.—(1) Any payment made by a local authority in accordance with—
 - (a) section 17, 23B, 23C or 24A of the Children Act 1989,
 - (b) section 12 of the Social Work (Scotland) Act 1968, or
 - (c) section 29 or 30 of the Children (Scotland) Act 1995.
 - (2) Any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities’ duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the claimant.
 - (3) Sub-paragraphs (1) and (2) are subject to the following provisions.
 - (4) Neither of those sub-paragraphs applies where the claimant is a person who is, or would be, prevented from being entitled to a jobseeker’s allowance by section 14 (trade disputes).
 - (5) Sub-paragraph (2) applies only where A—
 - (a) was formerly in the claimant’s care, and
 - (b) is aged 18 or over, and
 - (c) continues to live with the claimant.”;
 - (c) in paragraph 35 omit “a personal community charge pursuant to regulations under section 13A of the Local Government Finance Act 1988 or section 9A of the Abolition of Domestic Rates Etc (Scotland) Act 1987 (reduction of liability for personal community charge) or reduction of”.

Amendment of the State Pension Credit Regulations 2002

- 5.—(1) The State Pension Credit Regulations 2002(d) are amended as follows.
 - (2) In paragraph 5(5)(a) of Schedule 2 (housing costs), for “, in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations or the Intensive Activity Period for 50 plus” substitute “or in the Intensive Activity Period specified in regulation 75(1)(a)(iv) of those Regulations”.

Amendment of the Housing Benefit Regulations 2006

- 6.—(1) The Housing Benefit Regulations 2006(e) are amended as follows.
 - (2) In regulation 2(1) (interpretation) omit the definition of “Intensive Activity Period for 50 plus”.
 - (3) In regulation 37 (earnings of self-employed earners) after paragraph (2) add—

(a) 1992 c.14.
 (b) Relevant amending instrument for paragraph 12 is S.I. 2003/455.
 (c) Relevant amending instruments are S.I. 2001/3070, 2004/1141.
 (d) S.I. 2002/1792. Relevant amending instrument is S.I. 2002/3197.
 (e) S.I. 2006/213.

“(3) This paragraph applies to—

- (a) royalties;
- (b) sums paid periodically for or in respect of any copyright;
- (c) payments in respect of any book registered under the Public Lending Right Scheme 1982.

(4) Where the claimant’s earnings consist of any items to which paragraph (3) applies, those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of housing benefit which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 4 (sums to be disregarded in the calculation of earnings) as appropriate in the claimant’s case.”.

(4) In—

- (a) regulation 42(7)(c)(iii) and (10)(b)(i) (notional income); and
- (b) regulation 49(4)(b)(iii) (notional capital),

omit “or in the Intensive Activity Period for 50 plus”.

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

(a) after paragraph 28 insert—

“**28A.**—(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989(a) or section 29 of the Children (Scotland) Act 1995(b) (local authorities’ duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the claimant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the claimant’s care, and
- (b) is aged 18 or over, and
- (c) continues to live with the claimant.”;

(b) omit paragraphs 37 and 48;

(c) in paragraph 41 omit “, as the case may be,”.

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

(a) for paragraph 9(1)(b) substitute—

“(b) an income-related benefit under Part 7 of the Act;”;

(b) after paragraph 19 insert—

“**19A.**—(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities’ duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the claimant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the claimant’s care, and
- (b) is aged 18 or over, and
- (c) continues to live with the claimant.”;

(c) omit paragraph 29.

(a) 1989 c.41. Section 23B and 23C were inserted by section 2(1) and (4) of the Children (Leaving Care) Act 2000 (c.35). Section 24A was substituted by section 4(1) of the Children (Leaving Care) Act 2000.
(b) 1995 c.36.

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) omit the definitions of “Intensive Activity Period for 50 plus” and “Supplementary Benefit”.

(3) In regulation 27 (earnings of self-employed earners) after paragraph (2) add—

“(3) This paragraph applies to—

- (a) royalties;
- (b) sums paid periodically for or in respect of any copyright;
- (c) payments in respect of any book registered under the Public Lending Right Scheme 1982.

(4) Where the claimant’s earnings consist of any items to which paragraph (3) applies, those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of council tax benefit which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 3 (sums to be disregarded in the calculation of earnings) as appropriate in the claimant’s case.”.

(4) In—

- (a) regulation 32(7)(c)(iii) and (10)(b)(i) (notional income); and
- (b) regulation 39(4)(b)(iii) (notional capital),

omit “or in the Intensive Activity Period for 50 plus”.

(5) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—

(a) after paragraph 29 insert—

“**29A.**—(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989(b) or section 29 of the Children (Scotland) Act 1995(c) (local authorities’ duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the claimant.

(2) Sub-paragraph (1) applies only where A—

- (a) was formerly in the claimant’s care, and
- (b) is aged 18 or over, and
- (c) continues to live with the claimant.”;

(b) omit paragraphs 39 and 49;

(c) in paragraph 43 omit “, or as the case may be,”.

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

(a) for paragraph 9(1)(b) substitute—

“(b) an income-related benefit under Part 7 of the Act;”;

(b) after paragraph 19 insert—

“**19A.**—(1) Subject to sub-paragraph (2), any payment (or part of a payment) made by a local authority in accordance with section 23C of the Children Act 1989 or section 29 of the Children (Scotland) Act 1995 (local authorities’ duty to promote welfare of children and powers to grant financial assistance to persons in, or formerly in, their care) to a person (“A”) which A passes on to the claimant.

(a) S.I. 2006/215.

(b) 1989 c.41. Section 23B and 23C were inserted by section 2(1) and (4) of the Children (Leaving Care) Act 2000 (c.35). Section 24A was substituted by section 4(1) of the Children (Leaving Care) Act 2000.

(c) 1995 c.36.

- (2) Sub-paragraph (1) applies only where A—
- (a) was formerly in the claimant’s care, and
 - (b) is aged 18 or over, and
 - (c) continues to live with the claimant.”;
- (c) omit paragraphs 30 and 44.

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

11th March 2008

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulations 2 and 4 to 7 amend the Income Support (General) Regulations 1987 (S.I. 1987/1967) (“the Income Support Regulations”), the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207) (“the Jobseeker’s Allowance Regulations”), the State Pension Credit Regulations 2002 (S.I. 2002/1792), the Housing Benefit Regulations 2006 (S.I. 2006/213) and the Council Tax Benefit Regulations 2006 (S.I. 2006/215) to remove references to an obsolete scheme called the Intensive Activity Period for 50 plus.

Regulations 2, 4, 6 and 7 amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, the Housing Benefit Regulations 2006 and the Council Tax Benefit Regulations 2006 so as to:

- provide for the disregard of payments made by local authorities to a person (“A”) formerly in care which are passed on to the person who looked after him and with whom A continues to live;
- ensure that payments in respect of royalties, copyright and under the Public Lending Right Scheme are treated consistently in the benefits concerned;
- remove superfluous text and obsolete references to benefits no longer in payment.

Regulations 2 and 4 amend the Income Support Regulations and the Jobseeker’s Allowance Regulations so as to clarify:

- how monthly paid income is to be treated;
- references to the Secretary of State and “appropriate office”.

Regulation 2 amends the Income Support Regulations so as to:

- remove obsolete references to transitional categories of claimants which existed when Income Support was introduced;
- remove an anomaly so that qualifying young persons do not have to claim Jobseeker’s Allowance for a short period at the end of the child benefit extension period.

Regulation 3 amends the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) to ensure that:

- community interest companies created under Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004 are added to the list of eligible lenders;
- direct payments for arrears of service charges for claimants living in a hostel can be made when the amount of arrears exceeds £100.

Regulation 4 amends the Jobseeker’s Allowance Regulations so as to:

- ensure that, following the introduction of additional adoption leave in April 2007, any person on adoption leave is treated as not available for work;
- amend references to Venture Trust programmes to reflect the fact they are now only funded through the Scottish Ministers;
- remove an inconsistency in the applicable amount payable for a couple where one member is aged over 18 and the other member is aged under 18 and treated as responsible for a child, to ensure that the couple receive the full adult couple rate.

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

STATUTORY INSTRUMENTS

2008 No. 698

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) Regulations
2008**

£3.00

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E2180 3/2008 182180T 19585