

2011 No. 2425

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) (No. 3)
Regulations 2011**

Made - - - - - *4th October 2011*

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Coming into force in accordance with regulation 1

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

—sections 90, 123(1)(a), (d) and (e), 130(3), 130A(2), 135(1), 136(3) and (5), 136A(3), 137(1), 138(1)(a) and (4), 151(4), 171A(2), 171D(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a),

—sections 2A(1), (3)(b), (d) and (e), (4) and (5), 2AA(1), (4)(f) and (5), 5(1)(p), 189(1), (4), (5) and (6) and 191 of the Social Security Administration Act 1992(b),

—sections 3(1)(f)(iii), (2) and (4), 4(5), 12(1) and (4)(a), 17A(1), (5)(d), (6) and (7), 35(1) and 36(2) and (4) of, and paragraphs 1(1) and 8A of Schedule 1 to, the Jobseekers Act 1995(c),

(a) 1992 c. 4. Section 90 was repealed but continued with savings by virtue of article 4 of S.I. 2000/2958. The remaining provisions of section 90 (in relation to carer's allowance) were repealed on 6th April 2010 with savings by section 15 of the Welfare Reform Act 2009 (c. 24). Section 136A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act 2002 (c.16). Sections 137(1) and 138(4) are interpretation provisions and are cited because of the meaning given to the word "prescribed". Section 175(1) and (4) has been amended, but not in a way material to these Regulations.

(b) 1992 c. 5. Section 2A was inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c.30). Section 2AA was inserted by section 49 of the Employment Act 2002 (c.22). Section 189(1) and (4) was amended by section 86(1) and (2) of, and paragraph 109 of Schedule 7 and Schedule 8 to, the Social Security Act 1998 (c.14). Section 189(1) was also amended by paragraph 57(1) and (2) 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). Section 191 is an interpretation provision and is cited because of the meaning given to the word "prescribe".

(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". Paragraph 8A of Schedule 1 was inserted by section 59 of the Welfare Reform and Pensions Act 1999.

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

—sections 9(1)(a), 21(1)(a) and 84 of the Social Security Act 1998(b),

—sections 15(3) and (6)(b) and 17(1) of the State Pension Credit Act 2002(c), and

—sections 4(2)(a), 8(1), (4)(a) and (5), 9(1) and (4)(a), 24(1) and 28(2) of, and paragraph 1(4) of Schedule 1, paragraph 1(a) of Schedule 2 and paragraphs 1(1) and 8(1) of Schedule 4 to, the Welfare Reform Act 2007(d).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it.

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

PART 1

GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011.

(2) Subject to paragraph (3), these Regulations come into force on 31st October 2011.

(3) Regulation 6 (amendments to the Statutory Sick Pay (General) Regulations 1982) comes into force on 6th April 2012.

Application

2. Regulations 9(2) (amendments to the Social Security (Incapacity for Work) (General) Regulations 1995) and 23(5) and (6) (amendments to the Employment and Support Allowance Regulations 2008) respectively apply only in relation to information requested in the form of a questionnaire first issued to a person on or after 31st October 2011, in accordance with—

- (a) regulation 6(1)(b) of the Social Security (Incapacity for Work) (General) Regulations 1995(f) (information required for determining capacity for work); or
- (b) regulations 21(1)(b) (information required for determining capability for work) or 36(1)(a) (information required for determining capability for work-related activity) of the Employment and Support Allowance Regulations 2008(g).

(a) 1997 c. 27. Section 29 is cited because of the meaning given to the words “prescribed” and “regulations”.

(b) 1998 c. 14. Section 84 is cited because of the meaning given to the word “prescribed”.

(c) 2002 c. 16. Section 17(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”.

(d) 2007 c. 5. Section 24(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.

(e) See section 176(1) of the Social Security Administration Act 1992.

(f) S.I. 1995/311. Regulation 6(1)(b) was amended and substituted by regulation 2 of S.I. 1999/3109.

(g) S.I. 2008/794.

PART 2

AMENDMENTS TO PRIMARY LEGISLATION

Amendment to the Social Security Administration Act 1992

3. In section 179(5) of the Social Security Administration Act 1992 (reciprocal agreements with countries outside the UK) for “or this Act” substitute “, this Act or Part 1 of the Welfare Reform Act 2007”.

Amendments to the Data Protection Act 1998

4. In the Data Protection Act 1998(a)—

(a) in paragraph 2(e) of the Table in section 56(6) (prohibition of requirement as to production of certain records), for “or the Jobseekers Act 1995” substitute “, the Jobseekers Act 1995 or Part 1 of the Welfare Reform Act 2007”; and

(b) in section 75 (short title, commencement and extent)—

(i) in subsection (5), for “subsection (6)” substitute “subsections (5A) and (6)”, and

(ii) after subsection (5) insert—

“(5A) In section 56(6) (prohibition of requirement as to production of certain records), paragraph (2)(e) of the Table in that section, insofar as it relates to Part 1 of the Welfare Reform Act 2007, extends to England and Wales and Scotland only.”.

PART 3

AMENDMENTS TO SECONDARY LEGISLATION

Amendments to the Social Security Benefit (Dependency) Regulations 1977

5. In Schedule 2 to the Social Security Benefit (Dependency) Regulations 1977(b) (prescribed circumstances for increase of a carer’s allowance)—

(a) in paragraph 6(c), for “section 49” substitute “section 90 of the Contributions and Benefits Act(d)”; and

(b) in paragraph 7(e), for “the Act” substitute “the Contributions and Benefits Act”.

Amendments to the Statutory Sick Pay (General) Regulations 1982

6. In regulation 2 of the Statutory Sick Pay (General) Regulations 1982(f) (persons deemed incapable of work)—

(a) in paragraph (1)(b), for “by reason of his being a carrier, or having been in contact with a case, of a relevant disease” substitute “by reason of it being known or reasonably suspected that he is infected or contaminated by, or has been in contact with a case of, a relevant infection or contamination”; and

(a) 1998 c. 29.

(b) S.I. 1977/343.

(c) Paragraph 6 has been amended but not in a way material to these Regulations.

(d) Section 49 of the Social Security Act 1975 (c. 14) was repealed, along with the rest of that Act, by the Social Security (Consequential Provisions) Act 1992 (c. 6), section 3 and Schedule 1. It was substantively re-enacted in respect of increases for adult dependants by section 90 of the Social Security Contributions and Benefits Act 1992. Section 90 was repealed but continued with savings by virtue of article 4 of S.I. 2000/2958. The remaining provisions of section 90 (in relation to carer’s allowance) were repealed on 6th April 2010 with savings by section 15 of the Welfare Reform Act 2009 (c. 24).

(e) Paragraph 7 has been amended but not in a way material to these Regulations.

(f) S.I. 1982/894. Regulation 2 was amended by regulation 2 of S.I. 2006/799.

- (b) in paragraph (3), for the definition of “relevant disease” substitute—
- ““relevant infection or contamination” means—
- (a) in England and Wales—
- (i) any incidence or spread of infection or contamination, within the meaning of section 45A(3) of the Public Health (Control of Disease) Act 1984^(a) in respect of which regulations are made under Part 2A of that Act^(b) (public health protection) for the purpose of preventing, protecting against, controlling or providing a public health response to, such incidence or spread, or
- (ii) any disease, food poisoning, infection, infectious disease or notifiable disease to which regulation 9 (powers in respect of persons leaving aircraft) of the Public Health (Aircraft) Regulations 1979^(c) applies or to which regulation 10 (powers in respect of certain persons on ships) of the Public Health (Ships) Regulations 1979^(d) applies; and
- (b) in Scotland, any—
- (i) infectious disease within the meaning of section 1(5) of the Public Health etc (Scotland) Act 2008^(e), or exposure to an organism causing that disease, or
- (ii) contamination within the meaning of section 1(5) of that Act, or exposure to a contaminant,
- to which sections 56 to 58 of that Act (compensation) apply.”.

Amendments to the Income Support (General) Regulations 1987

- 7.—(1) The Income Support (General) Regulations 1987^(f) are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) in the definition of “qualifying person” after “the Skipton Fund^(g)” insert “, the Caxton Foundation”; and
- (b) after the definition of “terminal date” insert—
- ““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”.
- (3) In regulation 21AA^(h) (special cases: supplemental – persons from abroad) omit paragraph (4)(f)(i).
- (4) For regulation 42(1) (notional income), substitute—
- “(1) A claimant is to be treated as possessing income of which the claimant has deprived themselves for the purpose of securing entitlement to income support or increasing the amount of that benefit, or for the purpose of securing entitlement to, or increasing the amount of a jobseeker’s allowance or an employment and support allowance.”.
- (5) In regulations 42(4ZA)(a)⁽ⁱ⁾ and 48(10)(c) (income treated as capital), paragraph 18(8)(b) of Schedule 3 (housing costs), paragraphs 21(2) and 39(1) of Schedule 9 (sums to be disregarded in

(a) 1984 c. 22.

(b) Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14).

(c) S.I. 1979/1434.

(d) S.I. 1979/1435. Regulation 9 has been amended but not in a way material to these Regulations.

(e) 2008 asp 5.

(f) S.I. 1987/1967.

(g) The definition of “the Skipton Fund” was inserted by regulation 2 of S.I. 2004/1141.

(h) Regulation 21AA was inserted by regulation 6(3) of S.I. 1026/2006 and paragraph (4)(f) was substituted by regulation 2 of S.I. 2006/3341.

(i) Paragraph (4ZA) was inserted by regulation 2(2) of S.I. 1998/2117.

the calculation of income other than earnings) and paragraph 29 of Schedule 10 (capital to be disregarded), after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(6) In regulation 51(3A)(a)(a) (notional capital), paragraph 39(7) of Schedule 9 and paragraph 22(1) and (7) of Schedule 10, after “the Skipton Fund” insert “, the Caxton Foundation”.

(7) In paragraph 13A(1A) of Schedule 2(b) (applicable amounts: enhanced disability premium) after “claimant” insert “or partner”.

(8) In paragraph 11 of Schedule 9 and paragraph 63 of Schedule 10—

(a) in sub-paragraph (1), after paragraph (a)(iii) omit “or”;

(b) in sub-paragraph (1), after paragraph (b) add—

“; or

(c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.”; and

(c) in sub-paragraph (2), after “education maintenance allowance” insert “or other payment”.

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

8. Paragraph 1 of Schedule 9 to the Social Security (Claims and Payments) Regulations 1987(c) (deductions from benefit and direct payment to third parties) is amended as follows—

(a) in sub-paragraph (1)—

(i) in the definition of “contribution-based jobseeker’s allowance” before “means” insert “(except where used in sub-paragraph (2)(b))”, and

(ii) in the definition of “contributory employment and support allowance” before “means” insert “(except where used in sub-paragraph (3)(b))”;

(b) for sub-paragraph (2)(b) substitute—

“(b) contribution-based jobseeker’s allowance where—

(i) both income-based jobseeker’s allowance and contribution-based jobseeker’s allowance are in payment and the income-based jobseeker’s allowance alone is insufficient for the purposes of this Schedule; or

(ii) if there was no entitlement to contribution-based jobseeker’s allowance, there would be entitlement to income-based jobseeker’s allowance at the same rate.”; and

(c) for sub-paragraph (3)(b) substitute—

“(b) contributory employment and support allowance where—

(i) both income-related employment and support allowance and contributory employment and support allowance are in payment and the income-related employment and support allowance alone is insufficient for the purposes of this Schedule; or

(ii) if there was no entitlement to a contributory employment and support allowance, there would be entitlement to income-related employment and support allowance at the same rate.”.

Amendments to the Social Security (Incapacity for Work) (General) Regulations 1995

9.—(1) The Social Security (Incapacity for Work) (General) Regulations 1995 are amended as follows.

(a) Paragraph (3A) was inserted by regulation 3(2) and (3)(c) of S.I. 1998/2117.

(b) Paragraph 13A was inserted by regulation 2(c)(ii) of S.I. 2000/2629. Sub-paragraph (1A) was inserted by regulation 3(5)(a) of S.I. 2011/674.

(c) S.I. 1987/1968. Paragraph 1 was amended by S.I. 1996/1460, S.I. 1996/2344 and S.I. 2008/1554 and by other instruments, but not in a way material to these Regulations.

- (2) In regulation 7(2)(a) (failure to provide information)—
- (a) in sub-paragraph (a) for “6 weeks” substitute “4 weeks”; and
 - (b) in sub-paragraph (b)—
 - (i) for “4 weeks” substitute “3 weeks”, and
 - (ii) for “2 weeks have” substitute “1 week has”.
- (3) In regulation 11(b) (person with an infectious or contagious disease)—
- (a) for the heading substitute—

“Person with a relevant infection or contamination”;

- (b) in paragraph (1) for “by reason of his being a carrier, or having been in contact with a case, of a relevant disease” substitute “by reason of it being known or reasonably suspected that he is infected or contaminated by, or has been in contact with a case of, a relevant infection or contamination”; and
 - (c) in paragraph (2), for the definition of “relevant disease” substitute—
 - ““relevant infection or contamination” means—
 - (a) in England and Wales—
 - (i) any incidence or spread of infection or contamination, within the meaning of section 45A(3) of the Public Health (Control of Disease) Act 1984(c) in respect of which regulations are made under Part 2A of that Act(d) (public health protection) for the purpose of preventing, protecting against, controlling or providing a public health response to, such incidence or spread, or
 - (ii) any disease, food poisoning, infection, infectious disease or notifiable disease to which regulation 9 (powers in respect of persons leaving aircraft) of the Public Health (Aircraft) Regulations 1979(e) applies or to which regulation 10 (powers in respect of certain persons on ships) of the Public Health (Ships) Regulations 1979(f) applies; and
 - (b) in Scotland, any—
 - (i) infectious disease within the meaning of section 1(5) of the Public Health etc (Scotland) Act 2008(g), or exposure to an organism causing that disease, or
 - (ii) contamination within the meaning of section 1(5) of that Act, or exposure to a contaminant,
- to which sections 56 to 58 of that Act (compensation) apply.”.

Amendments to the Jobseeker’s Allowance Regulations 1996

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

- (2) In regulation 1(3) (citation, commencement and interpretation)—
- (a) after the definition of “care home(i)” insert—
 - ““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain

(a) Regulation 7 was amended by regulation 2(3) of S.I. 1999/3109.
 (b) Regulation 11 was substituted by regulation 12(2) of S.I. 2006/2378.
 (c) 1984 c. 22.
 (d) Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14).
 (e) S.I. 1979/1434.
 (f) S.I. 1979/1435. Regulation 9 has been amended but not in a way material to these Regulations.
 (g) 2008 asp 5.
 (h) S.I. 1996/207.
 (i) The definition of “care home” was inserted by regulation 3 and paragraph 2 of Schedule 2 to S.I. 2005/2687.

persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;” and

- (b) in the definition of “qualifying person” after “the Skipton Fund(a)” insert “, the Caxton Foundation”.
- (3) In regulation 51 (remunerative work) omit paragraphs (4) and (5).
- (4) In regulation 57(1)(b) (interpretation of Part IV) omit the definitions of “the Careers Service” and “the Connexions Service”.
- (5) In regulation 61(c) (other young persons in prescribed circumstances)—
 - (a) in paragraph (1), for sub-paragraphs (d) and (e) substitute—
 - “(d) to whom section 3(1)(f)(ii) or section 3A(1)(e)(i) does not apply, who is a person falling within paragraph (2) of regulation 57, sub-paragraph (a) or (b) of paragraph (1) of regulation 60, or sub-paragraph (b) or (c) of this paragraph, and who registers with Jobcentre Plus in accordance with regulation 62(2)(a); and
 - (e) to whom section 3(1)(f)(ii) or section 3A(1)(e)(i) does not apply, who is a person falling within paragraph (2) of regulation 57, sub-paragraph (a) or (b) of paragraph (1) of regulation 60, or sub-paragraph (b) or (c) of this paragraph, and who registers with Jobcentre Plus in accordance with regulation 62(2)(b).”;
 - (b) in sub-paragraphs (c) and (d) of paragraph (2), for “the Employment Service” substitute “Jobcentre Plus”; and
 - (c) in sub-paragraph (d) of paragraph (2), for “the Careers Service” substitute “a person other than Jobcentre Plus specified by the Secretary of State for the purposes of regulation 62(1)”.
- (6) In regulation 62(d) (registration)—
 - (a) in paragraph (1), for “the Careers Service or the Connexions Service” substitute “such person as the Secretary of State may specify”; and
 - (b) for paragraphs (2) and (3), substitute—
 - “(2) A young person must register with Jobcentre Plus for both employment and training where the Secretary of State has specified a person other than Jobcentre Plus for the purposes of paragraph (1) and—
 - (a) the young person is unable to register with that person because of an emergency affecting that person such as a strike or fire, or
 - (b) the young person would suffer hardship because of the extra time it would take to register with that person.”.
- (7) In regulation 85A(e) (special cases: supplemental – persons from abroad) omit paragraph (4)(f)(i).
- (8) In regulation 105(f) (notional income) for paragraph (1) substitute—
 - “(1) A claimant is to be treated as possessing income of which the claimant has deprived themselves for the purpose of securing entitlement to a jobseeker’s allowance or increasing the amount of that allowance, or for the purpose of securing entitlement to, or increasing the amount of income support or an employment and support allowance.”.

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- (a) The definition of “the Skipton Fund” was inserted by regulation 2 of S.I. 2004/1141.
 - (b) Regulation 57(1) was amended by regulation 5(a) of S.I. 2001/652 and by regulation 2 of S.I. 2010/1939 and in other ways not material to these regulations.
 - (c) Regulation 61(1) was amended by regulation 2(1), and (5) and paragraph 19(a) of Schedule 2 to S.I. 2000/1978 and regulation 5(b) of S.I. 2001/652 and in other ways not material to these regulations.
 - (d) Regulation 62 was amended by regulation 2(1) and (5) of, and paragraph 20 of Schedule 2 to, S.I. 2000/1978 and regulation 5(b) of S.I. 2001/652.
 - (e) Regulation 85A was inserted by regulation 7(3) of S.I. 1026/2006 and paragraph (4)(f) was substituted by regulation 3 of S.I. 2006/3341.
 - (f) Regulation 105 has been amended but not in a way material to these Regulations.

(9) In regulations 105(10A)(a)(a) (notional income) and 110(10)(c) (income treated as capital), paragraph 17(8)(b) of Schedule 2 (housing costs), paragraphs 22(2) and 41(1) of Schedule 7 (sums to be disregarded in the calculation of income other than earnings) and paragraph 31 of Schedule 8 (capital to be disregarded), after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(10) In regulation 113(3A)(a)(b) (notional capital), paragraph 41(7) of Schedule 7 and paragraph 27(1)(c) of Schedule 8, after “the Skipton Fund” insert “, the Caxton Foundation”.

(11) After paragraph 6A(d) (member has limited capability for work) of Schedule A1(e) insert—

“**6B.**—(1) Subject to sub-paragraph (2), a person who provides—

- (a) a statement which complies with the rules in Part 1 of Schedule 1 to the Social Security (Medical Evidence) Regulations 1976(f),
- (b) a self-certificate for a period of limited capability for work which lasts less than 8 days or in respect of any of the first 7 days of limited capability for work, or
- (c) where it would be unreasonable to require a person to provide a statement in accordance with paragraph (a), such other evidence as the Secretary of State considers to be sufficient to show that the person has limited capability for work.

(2) Sub-paragraph (1) applies to a person for the period covered by evidence falling within that sub-paragraph.

(3) For the purposes of this paragraph—

- (a) “limited capability for work” has the meaning given by section 1(4) of the Welfare Reform Act 2007; and
- (b) “self-certificate” means a declaration made by the person in writing on a form approved for the purpose by the Secretary of State that the person has been unfit for work on a date or for a period specified in the declaration and may include a statement that the person expects to continue to be unfit for work on days subsequent to the date on which it is made.”.

(12) In paragraph 15A(1A) of Schedule 1(g) (applicable amounts: enhanced disability premium) after “claimant” insert “or partner”.

(13) In Schedule 2 (housing costs)—

- (a) in paragraph 4(4A)(b)(h) (housing costs not met) for “failed to satisfy the condition specified either in section 2(1)(c), 3(1)(a) or 3A(1)(a)” substitute “had income equal to or in excess of the amount of earnings calculated under regulation 56 or the applicable amount determined in accordance with regulations 83 to 86C, whichever applies”; and
- (b) in paragraph 13(14)(i) (linking rule) for “he or his partner was engaged in remunerative work or failed to satisfy the conditions specified in section 2(1)(c) or 3(1)(a) or the joint-claim couple of which he was a member failed to satisfy the condition in section 3A(1)(a)” substitute “that person, their partner or, where that person is a member of a joint-claim couple, the other member of that couple, was engaged in remunerative work or had income equal to or in excess of the amount of earnings calculated under regulation

(a) Paragraph (10A) was inserted by regulation 2(1) of S.I. 1998/2117.

(b) Paragraph (3A) was inserted by regulation 3(1) of S.I. 1998/2117.

(c) Paragraph 27(1) was amended by regulation 3 of S.I. 2004/1141 and has been amended by other instruments not material to these Regulations.

(d) Paragraph 6A was inserted by regulation 3 of S.I. 2008/1554.

(e) Schedule A1 was inserted by regulation 2 of S.I. 2000/1978.

(f) S.I. 1976/615.

(g) Paragraph 15A was inserted by regulation 5(c)(ii) of S.I. 2000/2629. Sub-paragraph (1A) was inserted by regulation 7(6)(a) of S.I. 2011/674.

(h) Sub-paragraph (4A) was inserted by regulation 13(2) of S.I. 1997/2863 and has been amended by other instruments not material to these Regulations.

(i) Sub-paragraph (14) was inserted, with sub-paragraphs (13) and (15), by regulation 12(b)(iii) of S.I. 2001/488. It has been amended by other instruments not material to these Regulations.

56 or the applicable amount determined in accordance with regulations 83 to 86C, whichever applies”.

(14) In paragraph 12 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings) and paragraph 52 of Schedule 8 (capital to be disregarded)—

- (a) in sub-paragraph (1), after paragraph (a)(iii) omit “or”;
- (b) in sub-paragraph (1), after paragraph (b) add—
 - “; or
 - (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.”; and
- (c) in sub-paragraph (2), after “education maintenance allowance” insert “or other payment”.

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

11. In regulation 2(2) of the Social Security (Recovery of Benefits) Regulations 1997(a) (exempted trusts and payments) after sub-paragraph (1)(b) add—

“(m)any payment made from the Caxton Foundation, the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions.”.

Amendments to the Social Security and Child Support (Decisions and Appeals) Regulations 1999

12. Regulation 3 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(c) (revision of decisions) is amended as follows—

- (a) after paragraph (5C)(d) insert—
 - “(5D) A decision by the Secretary of State under section 8 or 10 awarding an employment and support allowance may be revised at any time if—
 - (a) it incorporates a determination that the conditions in regulation 30 of the Employment and Support Allowance Regulations are satisfied;
 - (b) the condition referred to in sub-paragraph (a) was not satisfied at the time when the claim was made; and
 - (c) there is a period before the award which falls to be decided.(e)”;
- (b) after paragraph (5F)(f) insert—
 - “(5G) Where—
 - (a) a person’s entitlement to an employment and support allowance is terminated because of a decision which embodies a determination that the person does not have limited capability for work;
 - (b) the person appeals that decision to the First-tier Tribunal;
 - (c) before or after that decision is appealed by the person, that person claims and there is a decision to award—
 - (i) income support, or
 - (ii) jobseeker’s allowance; and

(a) S.I. 1997/2205.

(b) Sub-paragraph (l) was inserted by regulation 5 of S.I. 2010/641.

(c) S.I. 1999/991.

(d) Paragraph (5C) was inserted by regulation 31(4) of S.I. 2008/1554.

(e) Regulation 3(5D) was inserted originally by regulation 31(4) of S.I. 2008/1554 and revoked by regulation 3(2)(a) of S.I. 2009/1490.

(f) Paragraph (5F) was inserted by regulation 7(2) of S.I. 2010/840.

(d) the decision referred to in sub-paragraph (a) is successfully appealed, the decision to award income support or jobseeker's allowance may be revised.

(5H) Where—

- (a) a conversion decision within the meaning of regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010^(a) (deciding whether an existing award qualifies for conversion) is made in respect of a person;
- (b) the person appeals that decision to the First-tier Tribunal;
- (c) before or after that decision is appealed by the person, that person claims and there is a decision to award—
 - (i) income support, or
 - (ii) jobseeker's allowance; and
- (d) the decision referred to in sub-paragraph (a) is successfully appealed, the decision to award income support or jobseeker's allowance may be revised.”.

Amendments to the Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000

13.—(1) The Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000^(b) are amended as follows.

(2) In regulation 2ZA(1)(c)(c) (requirement for certain lone parents to take part in an interview), in both places, for “6” substitute “4, 5 or 6”.

(3) In regulation 8 (reduction of income support)—

- (a) in paragraph (1) omit “on the date the deduction commences”; and
- (b) omit paragraph (4).

Amendments to the Social Security (Jobcentre Plus Interviews) Regulations 2002

14.—(1) The Social Security (Jobcentre Plus Interviews) Regulations 2002^(d) are amended as follows.

(2) In regulation 2(1)(e) (interpretation and application) omit the definitions of “the Careers Service” and “the Connexions Service”.

(3) In regulation 3(3) (requirement for person claiming a specified benefit to take part in an interview) for “the Careers Service or with the Connexions Service” substitute “such person as the Secretary of State may specify”.

(4) In regulation 4A(1)(f) (requirement for certain lone parents to take part in an interview)—

- (a) in sub-paragraph (a), before “is entitled to” insert “is aged 18 or over and”; and
- (b) in sub-paragraph (c), in both places, for “6” substitute “4, 5 or 6”.

(5) In regulation 11(3) (taking part in an interview) for “the Careers Service or with the Connexions Service” substitute “a person specified by the Secretary of State under regulation 3(3)”.

(6) In regulation 12(g) (failure to take part in an interview)—

(a) S.I. 2010/1907, as amended by S.I. 2010/2430.

(b) S.I. 2000/1926.

(c) Regulation 2ZA was inserted by S.I. 2008/3051, regulation 5(1) and (3), and amended by regulation 7 of S.I. 2008/.3051.

(d) S.I. 2002/1703.

(e) Regulation 2(1) was amended by article 5, and paragraph 45 of Schedule 3 to S.I. 2010/1172 and in other ways not material to these Regulations.

(f) Regulation 4A was inserted by regulation 8(1) and (3) of S.I. 2008/3051.

(g) Regulation 12 was amended by regulation 2 of S.I. 2005/2727 and regulation 8 of S.I. 2008/3051.

- (a) in paragraph (2)(c) omit “on the date the deduction commences”; and
- (b) omit paragraph (8).

Amendments to the State Pension Credit Regulations 2002

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

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

(a) after the definition of “care home service(b)” insert—

““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”; and

(b) in the definition of “qualifying person” after “the Skipton Fund(c)” insert “, the Caxton Foundation”.

(3) In regulation 2 (persons not in Great Britain) omit paragraph (4)(f)(i).

(4) In regulation 24 (income paid to third parties)—

(a) in paragraph (1) for “paragraph (2)” substitute “paragraphs (2) or (3)”; and

(b) after paragraph (2) insert—

“(3) Paragraph (1) shall not apply in respect of any payment of income arising out of the claimant’s participation in a service user group.”.

(5) In paragraph 14(8)(b) of Schedule II (housing costs) after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(6) In paragraph 15(1) and (7) of Schedule V (income from capital) after “the Skipton Fund” insert “, the Caxton Foundation”.

(7) In Part 1 (capital disregarded for the purpose of calculating income) of Schedule V (income from capital), after paragraph 23B insert—

“**23C.** Any payments made by virtue of regulations made under—

(a) section 57 (direct payments) of the Health and Social Care Act 2001(d);

(b) section 12B (direct payments in respect of community care services) of the Social Work (Scotland) Act 1968(e); or

(c) sections 12A to 12C (direct payments for health care) of the National Health Service Act 2006(f).”.

Amendments to the Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003

16.—(1) The Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003(g) are amended as follows.

(2) In regulation 11 (failure to take part in an interview)—

(a) in paragraph (2) omit “on the date the deduction commences”; and

(a) S.I. 2002/1792.

(b) The definition of “care home service” was inserted by regulation 2 and paragraph 1 of the Schedule to S.I. 2002/3197.

(c) The definition of “the Skipton Fund” was inserted by regulation 2 of S.I. 2004/1141.

(d) 2001 c. 15; section 57 was amended by the Health and Social Care Act 2008 (c. 14), section 146(1) to (7). In relation to Wales it was amended by the Social Care Charges (Wales) Measure 2010 (2010 nawm 2), section 16.

(e) 1968 c.49; section 12B was inserted by the Community Care (Direct Payments) Act 1996 (c. 30), section 4; it was amended by the Regulation of Care (Scotland) Act 2001 (2002 asp 8), section 70; the Community Care and Health (Scotland) Act 2002 (2002 asp 5), section 7 and Schedule 2, paragraph 1(2); and the Adult Support and Protection (Scotland) Act 2007 (2007 asp 10), section 63.

(f) 2006 c. 41; sections 12A to 12C were inserted by the Health Act 2009 (c. 21), section 11.

(g) S.I. 2003/1886.

- (b) omit paragraph (8).

Amendments to the Social Security (Habitual Residence) Amendment Regulations 2004

17. Regulation 6 of the Social Security (Habitual Residence) Amendment Regulations 2004(a) (transitional arrangements and savings) is amended as follows—

- (a) after paragraph (1)(c) add—
 - “(ca) to whom sub-paragraph (c) applied, claims an employment and support allowance and it is subsequently determined that he is entitled to that benefit, and this entitlement is linked to a previous period of entitlement by virtue of regulation 145(1) of the Employment and Support Allowance Regulations (linking rules);”;
- (b) in paragraph (2)—
 - (i) after sub-paragraph (c) omit “and”, and
 - (ii) after sub-paragraph (d) add—
 - “; and
 - (e) regulation 70(2) to (4) of the Employment and Support Allowance Regulations (special cases: supplemental – persons from abroad) does not apply.”; and
- (c) for paragraph (4) substitute—
 - “(4) In this regulation—
 - (a) “the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008(b); and
 - (b) “specified benefit” means income support, housing benefit, council tax benefit, jobseeker’s allowance, state pension credit and employment and support allowance.”.

Amendments to the Social Fund Maternity and Funeral Expenses (General) Regulations 2005

18. Regulation 10 of the Social Fund Maternity and Funeral Expenses (General) Regulations 2005(c) (deductions from an award of a funeral payment) is amended as follows—

- (a) in paragraph (2) omit “or” at the end of sub-paragraph (h) and after sub-paragraph (i) add—
 - “or
 - (j) the Caxton Foundation.”; and
- (b) in paragraph (3) for “and “the London Bombings Relief Charitable Fund”” substitute “, “the London Bombings Relief Charitable Fund” and “the Caxton Foundation””.

Amendments to the Housing Benefit Regulations 2006

19.—(1) The Housing Benefit Regulations 2006(d) are amended as follows.

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

- (a) after the definition of “care home” insert—
 - ““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain

(a) S.I. 2004/1232. These Regulations were partially revoked by S.I. 2006/217 but the transitional arrangements and savings in regulation 6 continued in force (with the exception of paragraph (2)(a)) following the partial revocation of the instrument of S.I. 2006/217. S.I. 2004/1232 was then revoked by S.I. 2006/1026 but those transitional arrangements and savings continue in force by virtue of regulation 11(2)(b) of S.I. 2006/1026.

(b) S.I. 2008/794.

(c) S.I. 2005/3061 as amended by regulation 8 of S.I. 2005/3391 and regulation 7 of S.I. 2010/641.

(d) S.I. 2006/213.

persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;” and

(b) in the definition of “qualifying person” after “the Skipton Fund” insert “, the Caxton Foundation”.

(3) In regulation 10 (persons from abroad) omit paragraph (3B)(f)(i)(a).

(4) In regulation 37 (earnings of self-employed earners), in paragraph (1) omit the words from “and shall include” to the end of the paragraph.

(5) In regulations 42(7)(a) (notional income), 46(6) (income treated as capital) and 74(9)(b) (non-dependant deductions), and paragraph 35(1) of Schedule 5 (sums to be disregarded in the calculation of income other than earnings) and paragraph 34 of Schedule 6 (capital to be disregarded), after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(6) In—

(a) paragraph 24(1) of Schedule 6 for “the Skipton Funds” substitute “the Skipton Fund, the Caxton Foundation”; and

(b) regulations 49(4)(a) (notional capital), 86(4)(a)(ii) (evidence and information), paragraph 35(7) of Schedule 5 and paragraph 24(7) of Schedule 6, after “the Skipton Fund” insert “, the Caxton Foundation”.

(7) In Schedule 3 (applicable amounts)—

(a) in paragraph 3(b) (family premium)—

(i) in sub-paragraph (1) omit “Subject to sub-paragraph (2),”, and

(ii) omit sub-paragraph (2)(c); and

(b) in paragraph 15(1A)(d) (enhanced disability premium) after “claimant” insert “or partner”.

(8) In paragraph 11 of Schedule 5 (sums to be disregarded in the calculation of income other than earnings) and paragraph 51 of Schedule 6—

(a) in sub-paragraph (1), after paragraph (a)(iii) omit “or”;

(b) in sub-paragraph (1), after paragraph (b) add—

“; or

(c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.”; and

(c) in sub-paragraph (2), after “education maintenance allowance” insert “or other payment”.

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

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

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

(a) after the definition of “care home” insert—

(a) Paragraph (3B) was inserted, along with paragraph (3A), by regulation 4(2) of S.I. 2006/1026. Sub-paragraph (f) was substituted by regulation 5 of S.I. 2006/3341.

(b) Sub-paragraph (1) was amended by article 20(7) of S.I. 2011/821 and sub-paragraph (2) was substituted by regulation 2(8)(a) of S.I. 2010/2449.

(c) Sub-paragraph (2) was substituted by regulation 2(8)(a) of S.I. 2010/2449.

(d) Paragraph 15(1A) was inserted by regulation 12(2)(a) of S.I. 2011/674.

(e) S.I. 2006/214.

“the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”;

- (b) in the definition of “person who requires overnight care(a)” for the full-out words at the end of paragraph (b) substitute—

“but, in a case where P is treated as occupying a dwelling which P does not actually occupy, sub-paragraphs (b)(ii) and (iii) are to be treated as satisfied where the relevant authority is satisfied that the dwelling contains such an additional bedroom and that P did or will reasonably so require and so arrange at such time as P actually occupied or occupies the dwelling;”;

- (c) in the definition of “qualifying person” after “the Skipton Fund” insert “, the Caxton Foundation”.

(3) In regulation 10 (persons from abroad) omit paragraph (4A)(f)(i)(b).

(4) In regulation 22 (applicable amounts) omit paragraph (1)(d)(c).

(5) In regulation 38(1) (earnings of self-employed earners) omit the words from “and shall include” to the end of the paragraph.

(6) In regulation 42 (income paid to third parties)—

- (a) in paragraph (1) for “paragraph (2)” substitute “paragraphs (2) or (3)”; and

- (b) after paragraph (2) insert—

“(3) Paragraph (1) shall not apply in respect of any payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of the claimant’s participation in a service user group.”.

(7) In regulation 55(10)(b) (non-dependant deductions) after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(8) In regulation 67(4)(a)(ii) (evidence and information) and paragraph 16(1)(a) of Schedule 6 (capital to be disregarded) after “the Skipton Fund” insert “, the Caxton Foundation”.

(9) In regulation 77(4)(d) (circumstances in which payment may be made to a landlord), in the definition of “landlord” for “regulation 95” substitute “regulation 76”.

(10) In Schedule 3 (applicable amounts)—

- (a) in paragraph 3 (family premium) omit sub-paragraph (2)(e); and

- (b) in paragraph 7(2)(f) (enhanced disability premium) after “claimant” insert “or partner”.

(11) In Part 1 (capital to be disregarded generally) of Schedule 6 (capital to be disregarded), after paragraph 26C(g) insert—

“**26D.** Any payments made by virtue of regulations made under—

- (a) section 57 of the Health and Social Care Act 2001 (direct payments)(h);

- (b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services)(i); or

(a) The definition of “person who requires overnight care” was inserted by regulation 3(2) of S.I. 2010/2835.

(b) Paragraph (4A) was inserted by regulation 5(2)(a) of S.I. 2006/1026. Sub-paragraph (f) was substituted by regulation 6 of S.I. 2006/3341.

(c) Regulation 22 was amended by regulation 2(3) of S.I. 2005/2502 (as amended by S.I. 2006/217) and regulation 4(4) of S.I. 2008/1042.

(d) Paragraph (4) was substituted by regulation 3(8)(b) of S.I. 2010/2835.

(e) Sub-paragraph (2) was substituted by regulation 3(8) of S.I. 2010/2449.

(f) Paragraph 7(2) was inserted by regulation 13(2)(c) of S.I. 2011/674.

(g) Paragraph 26C was inserted by regulation 7 of S.I. 2009/583.

(h) 2001 c. 15; section 57 was amended by the Health and Social Care Act 2008 (c. 14), section 146(1) to (7). In relation to Wales it was amended by the Social Care Charges (Wales) Measure 2010 (2010 nawm 2), section 16.

(i) 1968 c.49; section 12B was inserted by the Community Care (Direct Payments) Act 1996 (c. 30), section 4; it was amended by the Regulation of Care (Scotland) Act 2001 (2002 asp 8), section 70; the Community Care and Health (Scotland) Act

- (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care)(a).”.

Amendments to the Council Tax Benefit Regulations 2006

21.—(1) The Council Tax Benefit Regulations 2006(b) are amended as follows.

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

(a) after the definition of “care home” insert—

““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”; and

(b) in the definition of “qualifying person” after “the Skipton Fund” insert “, the Caxton Foundation”.

(3) In regulation 7 (persons from abroad) omit paragraph (4A)(f)(i)(c).

(4) In regulation 27(1) (earnings of self-employed earners) omit the words from “and shall include” to the end of the paragraph.

(5) In regulations 32(7)(a)(d) (notional income), 36(6) (income treated as capital) and 58(9)(b) non-dependant deductions), and in paragraph 2(b) of Schedule 2 (amount of alternative maximum council tax benefit), paragraph 36(1) of Schedule 4 (sums to be disregarded in the calculation of income other than earnings) and paragraph 34 of Schedule 5 (capital to be disregarded), after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(6) In—

(a) paragraph 24(1) of Schedule 5 for “the Skipton Funds” substitute “the Skipton Fund, the Caxton Foundation”; and

(b) regulations 39(4)(a) (notional capital) and 72(4)(a)(ii) (evidence and information), and paragraph 36(7) of Schedule 4, paragraph 24(7) of Schedule 5, after “the Skipton Fund” insert “, the Caxton Foundation”.

(7) In Schedule 1 (applicable amounts)—

(a) in paragraph 3(e) (family premium)—

(i) in sub-paragraph (1) omit “Subject to sub-paragraph (2)”, and

(ii) omit sub-paragraph (2)(f); and

(b) in paragraph 15(1A)(g) (enhanced disability premium) after “claimant” insert “or partner”.

(8) In paragraph 12 of Schedule 4 and paragraph 53 of Schedule 5—

(a) in sub-paragraph (1), after paragraph (a)(iii) omit “or”;

(b) in sub-paragraph (1), after paragraph (b) add—

“; or

(c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.”; and

2002 (2002 asp 5), section 7 and Schedule 2, paragraph 1(2); and the Adult Support and Protection (Scotland) Act 2007 (2007 asp 10), section 63.

(a) 2006 c. 41; sections 12A to 12C were inserted by the Health Act 2009 (c. 21), section 11.

(b) S.I. 2006/215.

(c) Paragraph (4A) was inserted by regulation 2(2)(a) of S.I. 2006/1026. Sub-paragraph (f) was substituted by regulation 7 of S.I. 2006/3341.

(d) Regulation 32 has been amended by other instruments not material to these Regulations.

(e) Sub-paragraph (1) was amended by article 22(5) of S.I. 2011/821 and sub-paragraph (2) was substituted by regulation 4(5)(a) of S.I. 2010/2449.

(f) Sub-paragraph (2) was substituted by regulation 4(5)(a) of S.I. 2010/2449.

(g) Paragraph 15(1A) was inserted by regulation 14(2)(a) of S.I. 2011/674.

- (c) in sub-paragraph (2), after “education maintenance allowance” insert “or other payment”.

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

22.—(1) The Council Tax 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) after the definition of “carer’s allowance” insert—

““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”; and

(b) in the definition of “qualifying person” after “the Skipton Fund” insert “, the Caxton Foundation”.

(3) In regulation 7 (persons from abroad) omit paragraph (4A)(f)(i)(b).

(4) In regulation 12 (applicable amounts) omit paragraph (1)(d)(c).

(5) In regulation 28(1) (earnings of self-employed earners) omit the words from “and shall include” to the end of the paragraph.

(6) In regulation 32 (income paid to third parties)—

(a) in paragraph (1) for “paragraph (2)” substitute “paragraphs (2) or (3)”; and

(b) after paragraph (2) insert—

“(3) Paragraph (1) shall not apply in respect of any payment of income other than earnings, or earnings derived from employment as an employed earner, arising out of the claimant’s participation in a service user group.”.

(7) In regulation 42(9)(b) (non-dependant deductions) and paragraph 2(b) of Schedule 6 (amount of alternative maximum council tax benefit) after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(8) In regulation 57(4)(a) (evidence and information) and paragraph 16(1)(a) of Schedule 4 (capital disregards) after “the Skipton Fund” insert “, the Caxton Foundation”.

(9) In Schedule 1 (applicable amounts)—

(a) in paragraph 3 (family premium) omit sub-paragraph (2)(d); and

(b) in paragraph 7(2)(e) (enhanced disability premium) after “claimant” insert “or partner”.

(10) In Part 1 (capital to be disregarded) of Schedule 4, after paragraph 26C(f) insert—

“**26D.** Any payments made by virtue of regulations made under—

(a) section 57 of the Health and Social Care Act 2001 (direct payments)(g);

(b) section 12B of the Social Work (Scotland) Act 1968 (direct payments in respect of community care services)(h); or

(a) S.I. 2006/216.

(b) Paragraph (4A) was inserted by regulation 3(2)(a) of S.I. 2006/1026. Sub-paragraph (f) was substituted by regulation 8 of S.I. 2006/3341.

(c) Regulation 12 was amended by regulation 3(3) of S.I. 2005/2502 (as amended by S.I. 2006/217).

(d) Sub-paragraph (2) was substituted by regulation 5(7) of S.I. 2010/2449.

(e) Paragraph 7(2) was inserted by regulation 15(2)(c) of S.I. 2011/674.

(f) Paragraph 26C was inserted by regulation 7 of S.I. 2005/2677 and was renumbered by S.I. 2009/2608.

(g) 2001 c. 15; section 57 was amended by the Health and Social Care Act 2008 (c. 14), section 146(1) to (7). In relation to Wales it was amended by the Social Care Charges (Wales) Measure 2010 (2010 nawm 2), section 16.

(h) 1968 c.49; section 12B was inserted by the Community Care (Direct Payments) Act 1996 (c. 30), section 4; it was amended by the Regulation of Care (Scotland) Act 2001 (2002 asp 8), section 70; the Community Care and Health (Scotland) Act

- (c) sections 12A to 12C of the National Health Service Act 2006 (direct payments for health care)(a).”.

Amendments to the Employment and Support Allowance Regulations 2008

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

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

(a) after the definition of “carer’s allowance” insert—

““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”;

(b) in the definition of “qualifying person” after “the Skipton Fund” insert “, the Caxton Foundation”; and

(c) omit the definition of “relevant disease” and after the definition of “relevant enactment” insert—

““relevant infection or contamination” means—

(a) in England and Wales—

(i) any incidence or spread of infection or contamination, within the meaning of section 45A(3) of the Public Health (Control of Disease) Act 1984(b) in respect of which regulations are made under Part 2A of that Act(c) (public health protection) for the purpose of preventing, protecting against, controlling or providing a public health response to, such incidence or spread, or

(ii) any disease, food poisoning, infection, infectious disease or notifiable disease to which regulation 9 (powers in respect of persons leaving aircraft) of the Public Health (Aircraft) Regulations 1979(d) applies or to which regulation 10 (powers in respect of certain persons on ships) of the Public Health (Ships) Regulations 1979(e) applies; and

(b) in Scotland, any—

(i) infectious disease within the meaning of section 1(5) of the Public Health etc (Scotland) Act 2008(f), or exposure to an organism causing that disease, or

(ii) contamination within the meaning of section 1(5) of that Act, or exposure to a contaminant,

to which sections 56 to 58 of that Act (compensation) apply.”.

(3) In regulation 8(1) (relaxation of the first contribution condition), for sub-paragraph (b) substitute—

“(b) the claimant has—

(i) earnings at the lower earnings limit in that tax year on which primary Class 1 contributions have been paid or treated as paid which in total, and disregarding any earnings which exceed the lower earnings limit for that year, are not less than that limit multiplied by 26; or

2002 (2002 asp 5), section 7 and Schedule 2, paragraph 1(2); and the Adult Support and Protection (Scotland) Act 2007 (2007 asp 10), section 63.

(a) 2006 c. 41; sections 12A to 12C were inserted by the Health Act 2009 (c. 21), section 11.

(b) 1984 c. 22.

(c) Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14).

(d) S.I. 1979/1434.

(e) S.I. 1979/1435. Regulation 9 has been amended but not in a way material to these Regulations.

(f) 2008 asp 5.

- (ii) earnings factors in that tax year derived from Class 2 contributions multiplied by 26.”.

(4) In regulation 20(c) (certain claimants to be treated as having limited capability for work), for “by reason of the claimant being a carrier, or having been in contact with a case, of a relevant disease” substitute “by reason of it being known or reasonably suspected that the claimant is infected or contaminated by, or has been in contact with a case of, a relevant infection or contamination”.

(5) In each of regulations 22(2)(a) (failure to provide information in relation to limited capability for work) and 37(2)(a) (failure to provide information in relation to work-related activity), for “6 weeks” substitute “4 weeks”.

(6) In each of regulations 22(2)(b) and 37(2)(b)—

- (a) for “4 weeks” substitute “3 weeks”; and
(b) for “2 weeks have” substitute “1 week has”.

(7) In regulation 70(a) (special cases: supplemental – persons from abroad) omit paragraph (4)(f)(i).

(8) In regulations 107(5)(a)(b) (notional income – income due to be paid or income paid to or in respect of a third party) and 112(8)(c) (income treated as capital), and paragraph 19(8)(b) of Schedule 6 (housing costs), paragraphs 22(2) and 41(1) of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) and paragraph 31 of Schedule 9 (capital to be disregarded), after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.

(9) In regulation 115(5)(a) (notional capital), and paragraph 41(7) of Schedule 8 and paragraph 27(1) and (7) of Schedule 9, after “the Skipton Fund” insert “, the Caxton Foundation”.

(10) In regulation 147A(5)(d) (claimants appealing a decision)—

- (a) in sub-paragraph (c) for “or struck out,” substitute “, struck out or has been discontinued in accordance with the provisions of regulation 33(10) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (notice of appeal)(e),”; and
(b) after the words “is to be treated as not having limited capability for work”, for the remainder of paragraph (5) substitute “with effect from the day specified in paragraph (5A).”.

(11) After regulation 147A(5) insert—

“(5A) The day specified for the purposes of paragraph (5) is the first day of the benefit week following the date on which the Secretary of State either—

- (a) receives the First-tier Tribunal’s notification that the appeal is dismissed, withdrawn or struck out, or
(b) discontinues action on an appeal in the circumstances to which regulation 33(10) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (notice of appeal) applies.”.

(12) In regulation 148(3)(f) (work or training beneficiaries) after the definition of “linking term” insert—

““most recent past period of limited capability for work” means the period of limited capability for work which most recently precedes the period in respect of which the current claim is made, including any period of which that previous period is treated as a continuation by virtue of regulation 145(1) or (2) (linking rules);”.

(a) Regulation 70 has been amended but not in a way material to these Regulations.

(b) Regulation 107 was amended by regulation 1(2) of S.I. 2008/2428 and regulation 11(9) of S.I. 2009/2655.

(c) Regulation 112(8) was amended by regulation 8(5) of S.I. 2008/2428.

(d) Regulation 147A was inserted by regulation 9(15) of S.I. 2010/840.

(e) S.I. 1999/991. Regulation 33(10) was inserted by S.I. 2000/1596, but then substituted entirely by S.I. 2002/1379 and then amended by S.I. 2008/2683.

(f) Regulation 148 was amended by regulation 21 of S.I. 2010/2430.

(13) In regulation 161(1)(a) (suspension of payment of a contributory allowance during imprisonment) for “(2)” substitute “(1)”.

(14) In paragraph 6 (severe disability premium) of Schedule 4 (amounts), in—

(a) sub-paragraph (2)(a)(i); and

(b) sub-paragraph (2)(b)(i),

after “care component” insert “or attendance allowance”.

(15) In paragraph 15(a) (linking rule) of Schedule 6, in sub-paragraphs (4)(b) and (17)(c) after “income” insert “equal to or”.

(16) In paragraph 13 of Schedule 8 and paragraph 52 of Schedule 9—

(a) in sub-paragraph (1), after paragraph (a)(iii) omit “or”;

(b) in sub-paragraph (1), after paragraph (b) add—

“; or

(c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.”; and

(c) in sub-paragraph (2), after “education maintenance allowance” insert “or other payment”.

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

24. In regulation 7(2) of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008(b) (exempted trusts and payments) after sub-paragraph (i)(c) add—

“(j) any payment made from the Caxton Foundation, the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions.”.

Amendments to the Social Security (Incapacity Benefit Work-focused Interviews) Regulations 2008

25. In regulation 9 (consequences of failure to take part in an interview) of the Social Security (Incapacity Benefit Work-focused Interviews) Regulations 2008(d)—

(a) in paragraph (2) for “(6)” substitute “(5)”; and

(b) omit paragraph (6).

Amendments to the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008

26.—(1) The Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008(e) are amended as follows.

(2) In regulation 6(a) (which modifies Schedule 2 (housing costs) to the Jobseeker’s Allowance Regulations 1996 in relation to certain claimants who are entitled to a relevant benefit on 4th January 2009), after paragraph 4A(3) in the modifications to Schedule 2 insert—

“(4) In determining whether the exemption provided for in sub-paragraph (3) applies, where the claimant or his partner or, if the claimant is a member of a joint-claim couple, the other member of the couple was in receipt of a jobseeker’s allowance immediately before

(a) Paragraph 15 has been amended but not in a way material to these Regulations.

(b) S.I. 2008/1596.

(c) Sub-paragraph (i) was inserted by regulation 13 of S.I. 2010/641.

(d) S.I. 2008/2928.

(e) S.I. 2008/3195.

becoming entitled to income support by virtue of regulation 6(6) of the Income Support Regulations, no account shall be taken of entitlement arising by virtue of that regulation.”.

(3) In regulation 11(b) (which modifies Schedule 2 (housing costs) to the Jobseeker’s Allowance Regulations 1996 in relation to certain claimants who are entitled to a relevant benefit after 4th January 2009), in paragraph 4A of the modifications to Schedule 2—

(a) in sub-paragraph (2) for “(6)” substitute “(7)”; and

(b) after sub-paragraph (6) insert—

“(7) In determining whether the exemption provided for in sub-paragraph (6) applies, where the claimant or his partner or, if the claimant is a member of a joint-claim couple, the other member of the couple was in receipt of a jobseeker’s allowance immediately before becoming entitled to income support by virtue of regulation 6(6) of the Income Support Regulations, no account shall be taken of entitlement arising by virtue of that regulation.”.

Amendments to the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit (Existing Awards) (No. 2) Regulations 2010

27.—(1) The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010(a) are amended as follows.

(2) In regulation 6(1)(b) (application of certain enactments for purpose of making conversion decisions) after “revision” insert “or supersession”.

(3) In each of paragraphs (f) and (g) of regulation 17(b) (changes of circumstances before the effective date) after “revise” insert “or supersede”.

(4) Schedule 2 (modification of enactments: after the conversion phase) is amended as follows—

(a) in paragraph 15(c), which modifies regulation 147A of the Employment and Support Allowance Regulations 2008 (claimants appealing a decision)—

(i) in paragraph (5) of the modified regulation 147A—

(aa) in sub-paragraph (c), for “or struck out,” substitute “, struck out or has been discontinued in accordance with the provisions of regulation 33(10) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (notice of appeal)(d),”; and

(bb) after the words “is to be treated as not having limited capability for work”, for the remainder of paragraph (5) substitute “with effect from the day specified in paragraph (5A).”,

(ii) after paragraph (5) of the modified regulation 147A insert—

“(5A) The day specified for the purposes of paragraph (5) is the first day of the benefit week following the date on which the Secretary of State either—

(a) receives the First-tier Tribunal’s notification that the appeal is dismissed, withdrawn or struck out, or

(b) discontinues action on an appeal in the circumstances to which regulation 33(10) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (notice of appeal) applies.”, and

(iii) in paragraph (6) of the modified regulation 147A, for “on the first day of the benefit week following the date on which the Secretary of State was notified by the First-tier Tribunal of that decision” substitute “from the first day of the benefit week following the date on which the Secretary of State receives the First-tier Tribunal’s notification of that decision”; and

(a) S.I. 2010/1907, as amended by S.I. 2010/2430.

(b) Regulation 17 was amended by regulation 9 of S.I. 2010/2430.

(c) Paragraph 15 was amended by regulation 17(6) and (7) of S.I. 2010/2430.

(d) Regulation 33(10) was inserted by S.I. 2000/1596, substituted by S.I. 2002/1379 and then amended by S.I. 2008/2683.

- (b) after paragraph 26 (modification of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001) insert—

“Social Security (Habitual Residence) Amendment Regulations 2004

27. Regulation 6 of the Social Security (Habitual Residence) Amendment Regulations 2004(a) (transitional arrangements and savings) is to be read as if—

- (a) in paragraph (1)—

(i) sub-paragraphs (a), (b) and (d) were omitted, and

(ii) for sub-paragraph (c) there were substituted—

“(c) is entitled to an employment and support allowance by virtue of—

(i) the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010, or

(ii) regulation 30 of the Employment and Support Allowance Regulations (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made) in the circumstances where the person has made and is pursuing an appeal against a conversion decision made under the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 which embodies a determination that the person does not have limited capability for work,

and immediately before the effective date of the conversion decision made in respect of that person, was entitled to a specified benefit in respect of a period which was continuous with a period of entitlement to the same or another specified benefit which included 30th April 2004;” and

- (b) in paragraph (4), before sub-paragraph (a) there were inserted—

“(za) “conversion decision” and “effective date” have the same meanings as in regulation 2(1) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010;”.”

(5) In Schedule 3 (list of regulations that apply after the conversion phase) after “The Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003” insert—

“The Social Security (Habitual Residence) Amendment Regulations 2004”.

Amendment to the Social Security (Contribution Conditions for Jobseeker’s Allowance and Employment and Support Allowance) Regulations 2010

28. Regulation 3(3) of the Social Security (Contribution Conditions for Jobseeker’s Allowance and Employment and Support Allowance) Regulations 2010(b) (amendment of the Employment and Support Allowance Regulations 2008) is revoked.

Amendment to the Jobseeker’s Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011

29. In regulation 8(8) (consequences of failure to participate in the scheme) of Jobseeker’s Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011(c) after “where” insert “on the same day as or before or”.

(a) The transitional arrangements and savings in regulation 6 continue in force (with the exception of paragraph (2)(a)) following the partial revocation of the instrument by S.I. 2006/217. S.I. 2004/1232 was then revoked by S.I. 2006/1026 but those transitional arrangements and savings continue in force by virtue of regulation 11(2)(b) of S.I. 2006/1026.

(b) S.I. 2010/2446.

(c) S.I. 2011/917.

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

4th October 2011

Freud
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 provisions relating to social security.

Part 1 makes general provision about these Regulations. Part 2 amends primary legislation and Part 3 amends secondary legislation.

Part 2 makes amendments to two provisions of primary legislation, consequential on the provisions in Part 1 of the Welfare Reform Act 2007. Regulation 3 amends section 179(5) of the Social Security Administration Act 1992. Section 179(1) makes provision for modification of legislation in order to give effect to reciprocal agreements made with countries outside the United Kingdom, in particular where such modification is necessary in consequence of a change in the law of Great Britain. Section 179(5) provides that the power in section 179(1) may be used to modify secondary legislation under specified acts in relation to particular benefits. The subsection is currently limited to regulations made under the Social Security Contributions and Benefits Act 1992 and the Social Security Administration Act 1992. Regulation 3 extends the coverage of this provision so that it also applies to regulations made under the Welfare Reform Act 2007.

Regulation 4 amends the Table attached to section 56(6) of the Data Protection Act 1998. Section 56 of this Act makes it a criminal offence to require an individual to supply or produce a relevant record, as defined in subsection (6), for the purposes of recruitment, continued employment, or the provision of services. The Table attached to section 56(6) lists, at item 2(e), the Secretary of State as data controller in relation to his functions under the Social Security Contributions and Benefits Act 1992, the Social Security Administration Act 1992 and the Jobseekers Act 1995. Regulation 4 extends this to the Secretary of State's functions under the Welfare Reform Act 2007.

In Part 3, Regulation 5 replaces a reference to repealed legislation in the Social Security Benefit (Dependency) Regulations 1977.

Regulation 6 amends the Statutory Sick Pay (General) Regulations 1982, to change from the concept of "relevant disease" to "relevant infection or contamination". This reflects the different public health approaches now taken in England and Wales and in Scotland. Regulations 9(3) and 23(2) and (4) make similar amendments to the Social Security (Incapacity for Work) (General) Regulations 1995 and the Employment and Support Allowance Regulations 2008 ("the Employment and Support Allowance Regulations").

Regulation 7 makes several amendments to the Income Support (General) Regulations 1987 mainly in order to provide for the Caxton Foundation, which is a new charitable trust established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions. The amendments will provide that payments from the Caxton Foundation are to be disregarded for certain purposes. Similar amendments are made in relation to other income-related benefits in regulation 10 (in respect of jobseeker's allowance ("JSA")), regulation 15 (in respect of the state pension credit) regulations 19 and 20 (in respect of housing benefit ("HB")), regulations 21 and 22 (in respect of council tax benefit ("CTB")) and regulation 23 (in respect of employment and support allowance ("ESA")). Regulation 11 provides for similar amendments to the Social

Security (Recovery of Benefits) Regulations 1997, regulation 18 to the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 (in respect of the social fund funeral payments) and regulation 24 to the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008.

Regulations 7, 10, 15 and 19 to 22 remove the provision whereby persons from abroad who were registered under the Home Office Worker Registration Scheme were not treated as persons from abroad for benefit purposes.

Regulation 7(7) makes amendments to the Income Support (General) Regulations 1987 to provide that an enhanced disability premium (“EDP”) is awarded for eight weeks following the death of a child or young person where the claimant’s partner is entitled to child benefit following the death of that child or young person. S.I. 2011/674 had inserted into the Income Support (General) Regulations 1987 a provision that allowed for an EDP to be awarded for a period of 8 weeks following the death of a child or young person in respect of whom the premium was awarded, provided the claimant is entitled to child benefit for 8 weeks in respect of that child or young person after his or her death. Similar amendments are made in respect of JSA (regulation 10(12)), HB (regulations 19(7)(b) and 20(10)(b)) and CTB (regulations 21(7)(b) and 22(9)(b)).

Regulation 7(8) adds a payment in England made under section 14 of the Education Act 2002 to those disregarded from being income other than earnings or capital for the purposes of income support (“IS”). This is distinct from a payment made under that section corresponding to an education maintenance allowance which, subject to being transitionally protected in some cases, is to be abolished in England. Similar amendments are made in respect of JSA (regulation 10(14)), HB (regulation 19(8)), CTB (regulation 21(8)) and ESA (regulation 23(16)).

Regulation 8 amends Schedule 9 to the Social Security (Claims and Payments) Regulations 1987 to ensure that deductions from benefit to discharge obligations to third parties can be made where a person is being paid both income-based and contribution-based jobseeker’s allowance or both income-related and contributory ESA.

Regulations 9(2) and 23(5) and (6) amend the Social Security (Incapacity for Work) (General) Regulations 1995 and the Employment and Support Allowance Regulations to reduce the amount of time that passes before a claimant is to be treated as capable of work (in the context of incapacity benefit) or treated as not having limited capability for work or work-related activity (in the context of ESA) where the claimant fails without good cause to comply with a request for information. By virtue of regulation 2 of these Regulations, the amendments in regulations 9(2) and 23(5) and (6) respectively apply only in relation to information requested in the form of a questionnaire first issued by the Secretary of State on or after 31st October 2011.

Regulation 10 amends the Jobseeker’s Allowance Regulations 1996. Paragraph (3) amends the definition of remunerative work by revoking two paragraphs which refer to legislation which has been revoked.

Paragraphs (4) to (6) remove the definitions of and references to “the Careers Service” and “the Connexions Service” and make provision for young people to register for employment and training with such person as the Secretary of State may specify instead of with those services, and provide that in certain circumstances a young person must register with Jobcentre Plus, instead of the Employment Service. Paragraphs (2), (3) and (5) of regulation 14 make similar changes to the Social Security (Jobcentre Plus Interview) Regulations 2002 so that the Secretary of State may arrange for a claimant under the age of 18 to take part in a work-focused interview with such person as the Secretary of State may specify.

Paragraph (11) amends the Jobseeker’s Allowance Regulations 1996 to provide that a joint-claim couple may be entitled to a joint-claim JSA even though one member of the couple does not meet all of the conditions of entitlement. The new exemption applies in circumstances where the claimant provides evidence of limited capability for work.

Regulation 12(a) amends the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (“the 1999 Regulations”) to enable the Secretary of State to revise a decision at

any time where there is a non-medical change of circumstances relating to an ESA decision. Regulation 12(b) provides for two further grounds of revision relating to where a person's ESA entitlement is terminated (or not established in the first place as a result of a negative decision made where a person has been reassessed for ESA), the decision giving rise to that is appealed by that person to the First-tier Tribunal, the person claims and is awarded IS or JSA during the interim period and the appeal against the original decision is eventually successful.

Regulation 13 amends the Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000 ("the 2000 Regulations"). Paragraph (2) amends regulation 2ZA of the 2000 Regulations so that lone parents who fall within only paragraph (1) of Schedule 1B to the Income Support (General) Regulations 1987 are required to take part in work-focused interviews every 13 weeks if they have a youngest child of 4 or 5, as well as if they have a youngest child of 6. Paragraph (3) amends the 2000 Regulations so that when a person's benefit is to be reduced because of a sanction under the Regulations, the reduction is to be calculated by reference to the benefits rates that are applicable during each week of the sanction period, and not by reference to rates that are applicable at the date that deductions commence. It also removes paragraph (4) of regulation 8 of the 2000 Regulations to reflect the approach taken in other regulations making provision for benefit sanctions.

Regulation 14 amends the Social Security (Jobcentre Plus Interviews) Regulations 2002 ("the 2002 Regulations"). Paragraph (4) amends regulation 4A of the 2002 Regulations so that lone parents who are aged 18 or over and who fall within only paragraph (1) of Schedule 1B to the Income Support (General) Regulations 1987 are required to take part in work-focused interviews every 13 weeks if they have a youngest child of 4 or 5, as well as if they have a youngest child of 6. Paragraph (6) makes the same change in relation to sanctions under the 2002 Regulations as regulation 13(3) of these Regulations makes to the 2000 Regulations, to enable sanctions rates to be amended when benefit rates change and to otherwise align with the approach taken where the amount of benefit payable to a claimant changes during a sanction period.

Regulation 15 amends the State Pension Credit Regulations 2002 ("the State Pension Credit Regulations"). In particular, paragraph (4) amends regulation 24 of the State Pension Credit Regulations so that any payment made to a third party on behalf of the claimant, as a service user, is not treated as income of the claimant. Similar amendments are made in respect of HB and CTB by regulations 20(6) and 22(6) respectively. Paragraph (7) amends Part 1 of Schedule 5 to the State Pension Credit Regulations so that any direct payment made to a claimant is to be disregarded as capital. Similar amendments are made in respect of HB and CTB by regulations 20(11) and 22(10) respectively.

Regulation 16 amends the Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003 to make the same amendment in relation to sanctions under those Regulations as regulation 13(3) of these Regulations makes in relation to the 2000 Regulations to enable sanction rates to be amended when benefit rates change and to otherwise align with the approach taken where the amount of benefit payable to a claimant changes during a sanction period.

Regulation 17 amends regulation 6 of the Social Security (Habitual Residence) Amendment Regulations 2004. When the right to reside test was first introduced, in May 2004, all those entitled to a specified income-related benefit on 30 April 2004 were transitionally protected and were allowed to move between the specified benefits without being required to satisfy the test for each benefit. Regulation 17(c) adds ESA to the list of specified benefits in paragraph (4) of regulation 6. Regulation 17(a) inserts paragraph (1)(ca) into paragraph (1) of regulation 6 and, with Regulation 17(b), provides that the right to reside test for income-related benefits does not apply to a person who had already benefited from the paragraph (1)(c) condition, who then claims ESA and it is subsequently determined that their ESA entitlement is separated from a previous period of entitlement to that benefit by not more than 12 weeks.

Regulations 19 to 22 make a number of amendments to the regulations relating to HB and CTB. In particular, they amend the meaning of earnings in the case of self-employed earners so that they no longer include certain allowances paid to the claimant for the purpose of assisting in carrying out the claimant's business. They also remove provisions providing an amount in the claimant's

applicable amount in respect of a child under one for whom the claimant receives an additional amount of child tax credit. The additional amount of child tax credit was abolished in April 2011.

Regulation 23 amends the Employment and Support Allowance Regulations. In addition to making changes in respect of ESA replicated elsewhere in these Regulations in relation to other income-related benefits, regulation 23 also makes other changes unique to ESA.

Paragraph (3) substitutes a new, but identical, paragraph (b) for existing regulation 8(1)(b) of the Employment and Support Allowance Regulations. This amendment is necessary because of an error in the making of regulation 3(3) of the Social Security (Contribution Conditions for Jobseeker's Allowance and Employment and Support Allowance) Regulations 2010, which substituted the existing regulation 8(1)(b) into the Employment and Support Allowance Regulations. Regulation 3(3) is revoked by regulation 28 of these Regulations.

Paragraphs (10) and (11) amend regulation 147A(5) of the Employment and Support Allowance Regulations to address circumstances in which regulation 33(10) of the 1999 Regulations applies. The amendments to regulation 147A(5) also provide that a claimant is treated as not having limited capability for work from the first day of the benefit week following the date on which the Secretary of State receives the First-tier Tribunal's notification that the claimant's appeal has been dismissed, withdrawn, struck out or discontinued in accordance with regulation 33(10) of the 1999 Regulations.

Paragraph (12) defines "most recent past period of limited capability for work" for the purposes of defining whether a claimant is a work or training beneficiary under regulation 148 of the Employment and Support Allowance Regulations. Paragraph (13) corrects an incorrect legislative reference. Paragraph (14) adds attendance allowance to the care component of disability living allowance as the benefits which have to be received as a condition of entitlement to the severe disability premium for ESA. This is because the definition of "attendance allowance" in regulation 2(1) of the Employment and Support Allowance Regulations is wider than just attendance allowance (under section 64 of the Social Security Contributions and Benefits Act 1992) which is payable only to pension age claimants. Paragraph (15) makes a small amendment to the housing costs linking rules in relation to ESA which replicate similar changes made in relation to other income-related benefits in S.I. 2011/674. Similar amendments are made in these Regulations in relation to JSA in regulation 10(13).

Regulation 25 amends the Social Security (Incapacity Benefit Work-focused Interviews) Regulations 2008 and makes the same change in relation to sanctions under those Regulations as regulation 13(3) of these Regulations makes to the 2000 Regulations, to enable sanctions rates to be amended when benefit rates change and to otherwise align with the approach taken where the amount of benefit payable to a claimant changes during a sanction period.

Regulation 26 amends the Social Security (Housing Costs Special Arrangements) (Amendment and Modification) Regulations 2008 with the result that where entitlement to IS only arises as the result of mortgage interest run on (MIRO) being paid after an award of JSA ends, MIRO is to be disregarded for the purpose of deciding whether the exception to the 104 week limit on support for mortgage interest applies (the exception applies where the person was previously entitled to IS or ESA within a period of 12 weeks or less).

Regulation 27 amends the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No.2) Regulations 2010. Paragraph (2) amends regulation 6(1)(b) of those Regulations to provide that the listed enactments can be applied for the purposes of supersession before the effective date of the conversion decision, as well as revision. Paragraph (3) amends regulation 17 of those Regulations to provide that the Secretary of State is able to supersede a conversion decision in certain circumstances; regulation 17(f) and (g) as made only provided for it to be revised. Paragraph (4)(a) mirrors the changes made by regulations 23(10) and (11) of these Regulations. It also provides that where an appeal against an adverse decision is upheld, entitlement to a pending-appeal award terminates from the first day of the benefit week following the date on which the Secretary of State receives the First-tier Tribunal's notification of the outcome of the appeal.

Paragraph (4)(b) modifies the application of regulation 6 of the Social Security (Habitual Residence) Amendment Regulations 2004 to continue to transitionally protect the claimant who, before reassessment, was already benefiting from transitional protection from the right to reside test, and who, as a consequence of reassessment, becomes entitled to ESA.

Regulation 28 revokes regulation 3(3) of the Social Security (Contribution Conditions for Jobseeker's Allowance and Employment and Support Allowance) Regulations 2010 (see also the note on regulation 23(3)).

Regulation 29 amends the Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011 to make clear that in circumstances where a claimant can bring a sanction under those regulations to an end sooner by re-complying with conditionality requirements, re-compliance can take place before, at the same time as, or after the determination that the claimant has failed to participate in the scheme.

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations.

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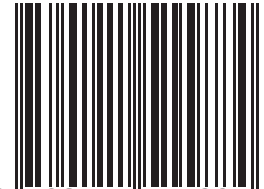
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