
STATUTORY INSTRUMENTS

1993 No. 2119

SOCIAL SECURITY

The Income-related Benefits Schemes (Miscellaneous Amendments) (No. 4) Regulations 1993

Made - - - - 25th August 1993
Laid before Parliament 6th September 1993
Coming into force in accordance with regulation 1(1)

The Secretary of State for Social Security, in exercise of powers conferred on him by sections 128(5), 129(8), 135(1), 136(1), (3), (4) and (5)(b), 137(1) and (2)(d), (e), (l) and (m) and 175(1) to (5) of the Social Security Contributions and Benefits Act 1992⁽¹⁾, and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it⁽²⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income-related Benefits Schemes (Miscellaneous Amendments) (No. 4) Regulations 1993 and shall come into force—

- (a) for the purposes of regulations 1 to 24, on 4th October 1993;
- (b) for the purposes of regulations 25 to 46, on 5th October 1993.

(2) Regulations 1 to 24 of these Regulations shall have effect in relation to any particular claimant at the beginning of the first benefit week to commence for that claimant on or after 4th October 1993 which applies in his case; and for this purpose the expressions “claimant” and “benefit week” have the same meanings as in the Income Support Regulations.

(3) Regulations 25 to 46 of these Regulations shall have effect in relation to any particular claimant—

- (a) except where sub-paragraph (b) applies, on 5th October 1993, or
- (b) where a claimant has an award of family credit or disability working allowance which is current on 4th October 1993, on the day following the expiration of that award.

(4) In these Regulations—

(1) 1992 c. 4; section 137(1) is an interpretation provision and is cited because of the meaning assigned to the word “prescribed”.
(2) See the Social Security Administration Act 1992 (c. 5), section 173 (1)(b).

“the Disability Working Allowance Regulations” means the Disability Working Allowance (General) Regulations 1991(3);

“the Family Credit Regulations” means the Family Credit (General) Regulations 1987(4);

“the Income Support Regulations” means the Income Support (General) Regulations 1987(5).

Amendment of regulation 2 of the Income Support Regulations

2. In regulation 2(1) of the Income Support Regulations (interpretation)—

(a) after the definition of “Crown tenant” there shall be inserted the following definition—

““date of claim” means the date on which the claimant makes, or is treated as making, a claim for income support for the purposes of regulation 6 of the Social Security (Claims and Payments) Regulations 1987(6);”;

(b) after the definition of “lower rate” there shall be inserted the following definition—

““maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part III of the Employment Protection (Consolidation) Act 1978(7);”;

(c) after the definition of “period of study” there shall be inserted the following definition—

““personal pension scheme” has the same meaning as in section 84(1) of the Act and, in the case of a self-employed earner, includes a scheme approved by the Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(8);”.

Amendment of regulation 5 of the Income Support Regulations

3.—(1) Regulation 5 of the Income Support Regulations (persons treated as engaged in remunerative work)(9) shall be amended in accordance with the following provisions of this regulation.

(2) After paragraph (3) there shall be inserted the following paragraph—

“(3A) A person shall not be treated as engaged in remunerative work on any day on which the person is on maternity leave or is absent from work because he is ill.”.

(3) In paragraph (6) for the words “paragraph (f)” there shall be substituted the words “paragraph (k)”.

(3) S.I. 1991/2887.

(4) S.I. 1987/1973.

(5) S.I. 1987/1967.

(6) S.I. 1987/1968; regulation 6 was amended by S.I. 1988/522, 1989/1686, 1990/725, 1990/2208, 1991/2284 and 1991/2741.

(7) 1978 c. 44; section 33 was amended by the Social Security Act 1986 (c. 50), section 86, Schedule 10, Part IV, paragraph 75, Schedule 11; the Employment Act 1980 (c. 42), sections 11(1) and (2), 20, Schedule 2; the Nurses, Midwives and Health Visitors Act 1979 (c. 36), section 23(4), Schedule 7, paragraph 31. Sections 34 to 44 were repealed by the Social Security Act 1986, sections 49(3), 86(2), Schedule 4, Part III, Schedule 11. Section 45 has been amended prospectively by the Social Security Act 1989 (c. 24), section 23, Schedule 5, Part II, paragraph 15; Schedule 5, paragraph 15 has been repealed prospectively by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 51, Schedule 10. Section 47 was amended by the Employment Act 1980 (c. 42), section 11 (3). Part III of the 1978 Act has been amended prospectively by the Trade Union Reform and Employment Rights Act 1993, sections 23 and 25, Schedules 2 and 3.

(8) 1988 c. 1.

(9) Relevant amending instruments are S.I. 1988/663, 1445 and 2022, 1989/1323, 1990/547 and 1991/1559.

Amendment of regulation 12 of the Income Support Regulations

4. In regulation 12 of the Income Support Regulations (relevant education)(10) in paragraph (2) for the word “Technician” in each place where it occurs there shall be substituted the word “Technology”.

Amendment of regulation 15 of the Income Support Regulations

5. In regulation 15 of the Income Support Regulations (circumstances in which a person is to be treated as responsible or not responsible for another) for paragraphs (1) and (2) there shall be substituted the following paragraphs—

“(1) Subject to the following provisions of this regulation, a person is to be treated as responsible for a child or young person for whom he is receiving child benefit.

(1A) In a case where a child (“the first child”) is in receipt of child benefit in respect of another child (“the second child”), the person treated as responsible for the first child in accordance with the provisions of this regulation shall also be treated as responsible for the second child.

(2) In the case of a child or young person in respect of whom no person is receiving child benefit, the person who shall be treated as responsible for that child or young person shall be—

- (a) except where sub-paragraph (b) applies, the person with whom the child or young person usually lives; or
- (b) where only one claim for child benefit has been made in respect of the child or young person, the person who made that claim.”.

Amendment of regulation 16 of the Income Support Regulations

6.—(1) Regulation 16 of the Income Support Regulations (circumstances in which a person is to be treated as being or not being a member of the household)(11) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “is absent from the dwelling occupied as his home” there shall be substituted the words “is temporarily living away from the other members of his family”.

(3) For paragraph (2) there shall be substituted the following paragraph—

“(2) Paragraph (1) shall not apply to a person who is living away from the other members of his family where—

- (a) that person does not intend to resume living with the other members of his family; or
- (b) his absence from the other members of his family is likely to exceed 52 weeks, unless there are exceptional circumstances (for example the person is in hospital or otherwise has no control over the length of his absence), and the absence is unlikely to be substantially more than 52 weeks.”.

Amendment of regulation 17 of the Income Support Regulations

7. In regulation 17(1)(b) of the Income Support Regulations (applicable amounts) for the words “except where otherwise provided” there shall be substituted the words “except as provided in regulation 44(1) (modifications in respect of children and young persons)”.

(10) Relevant amending instruments are S.I. 1988/1228, 1990/547 and 1992/2155.

(11) Relevant amending instrument is S.I. 1988/663.

Amendment of regulation 18 of the Income Support Regulations

8. In regulation 18(1)(c) of the Income Support Regulations (polygamous marriages) for the words “except where otherwise provided” there shall be substituted the words “except as provided in regulation 44(1) (modifications in respect of children and young persons)”.

Amendment of regulation 19 of the Income Support Regulations

9.—(1) Regulation 19 of the Income Support Regulations (applicable amounts for persons in residential care and nursing homes)(**12**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1ZC)(**13**) in sub-paragraph (b) for the words “or by any member” there shall be substituted the words “or of any member”.

(3) In paragraph (1ZG)—

(a) in sub-paragraph (a)—

(i) for the words “, or by a member” there shall be substituted the words “or of any member”;

(ii) for the words “and are provided” there shall be substituted the words “or are provided”;

(b) in sub-paragraph (b) for the words “, or by a member” there shall be substituted the words “or of any member”.

(4) After paragraph (1ZJ) there shall be inserted the following paragraphs—

“(1ZK) Where a person—

(a) formerly had a preserved right by virtue of paragraph (1ZB); and

(b) on 1st April 1993 was living in a home which was exempt from registration under Part I of the Registered Homes Act 1984(**14**) pursuant to section 1(4)(a) of that Act(**15**) (exemption from registration in respect of certain homes) because one or more of the residents were treated as relatives pursuant to section 19(4) of that Act; and

(c) is living in that home on 4th October 1993; and

(d) between 1st April 1993 and 4th October 1993 he has not been absent from that home, or has been absent from it for a period not exceeding 13 weeks;

then subject to paragraph (1ZL) that person shall be treated for the purposes of this regulation as though he had a preserved right on and after 4th October 1993.

(1ZL) Paragraph (1ZK) shall cease to apply to a person who is treated as though he had a preserved right where he is absent from a residential care home or nursing home and that absence exceeds a period of—

(a) except in a case to which sub-paragraph (b) applies, 13 weeks; or

(b) 52 weeks where throughout the period of absence the person was a patient.”.

(5) In paragraph (3)(**16**) in the definition of “residential care home”—

(a) in sub-paragraph (e) for the word “1968;” there shall be substituted the words “1968; or”;

(b) after sub-paragraph (e) there shall be added the following sub-paragraph—

(12) Relevant amending instruments are S.I. 1988/663, 1988/1445, 1988/2022, 1989/1678, 1991/1033 and 1992/3147.

(13) Paragraphs (1ZB) to (1ZJ) were inserted by S.I. 1992/3147.

(14) 1984 c. 23

(15) Section 1(4) was substituted by section 1(2) of the Registered Homes (Amendment) Act 1991 (c. 20)

(16) Relevant amending instruments are S.I. 1988/663, 1445 and 2022 and 1992/3147

- “(f) which is exempt from registration under Part I of the Registered Homes Act 1984 pursuant to section 1(4)(a) of that Act (exemption from registration in respect of certain homes) because one or more of the residents are treated as relatives pursuant to section 19(4) of that Act;”.

Amendment of regulation 21 of the Income Support Regulations

10. In paragraph (3C) of regulation 21 of the Income Support Regulations (special cases)(**17**) after the words “by that or another” there shall be inserted the word “local”.

Amendment of regulation 30 of the Income Support Regulations

11. In regulation 30(1) of the Income Support Regulations (calculation of earnings of self-employed earners)—

- (a) in sub-paragraph (a) for the words “52 weeks” there shall be substituted the words “one year”;
- (b) in sub-paragraph (b) the words “of weeks” shall be omitted.

Amendment of regulation 35 of the Income Support Regulations

12. In regulation 35(2) of the Income Support Regulations (earnings of employed earners) in sub-paragraph (b) for the words from “who for the time being is” to the end of the sub-paragraph there shall be substituted the words “in respect of a period throughout which the claimant is on maternity leave or is absent from work because he is ill”.

Amendment of regulation 38 of the Income Support Regulations

13.—(1) Regulation 38 of the Income Support Regulations (calculation of net profit of self-employed earners) shall be amended in accordance with the following provisions of this regulation.

(2) For the words “one-half of any qualifying premium payable” in each place where they occur there shall be substituted the words “one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme”.

(3) For paragraph (12) there shall be substituted the following paragraph—

“(12) In this regulation, “retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium.”.

Amendment of regulation 39 of the Income Support Regulations

14. In regulation 39(2) of the Income Support Regulations (deduction of tax and contributions for self-employed earners(**18**)) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

- “(a) the amount of Class 2 contributions payable under section 11(1) or, as the case may be, 11(3) of the Contributions and Benefits Act at the rate applicable at the date of claim except where the claimant’s chargeable income is less than the amount specified in section 11(4) of that Act (small earnings exception) for the tax year in which the date of claim falls; but if the assessment period is less than a year, the amount specified for that tax year shall be reduced pro rata; and

(17) Paragraph (3A) was inserted by S.I. [1991/1656](#); paragraphs (3B) and (3C) were inserted by S.I. [1993/518](#)

(18) Relevant amending instrument is S.I. [1992/2155](#)

- (b) the amount of Class 4 contributions (if any) which would be payable under section 15 of that Act (Class 4 contributions recoverable under the Income Tax Acts) at the percentage rate applicable at the date of claim on so much of the chargeable income as exceeds the lower limit but does not exceed the upper limit of profits and gains applicable for the tax year in which the date of claim falls; but if the assessment period is less than a year, those limits shall be reduced pro rata.”.

Amendment of regulation 44 of the Income Support Regulations

15.—(1) Regulation 44 of the Income Support Regulations (modifications in respect of children and young persons) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) the words “, except where otherwise provided,” shall be omitted.

(3) In paragraph (4) for the words “the foregoing provisions” there shall be substituted the words “Chapters I to V”.

(4) In paragraph (5) for the words “except where otherwise provided” there shall be substituted the words “except as provided in paragraph (1)”.

Amendment of regulation 61 of the Income Support Regulations

16. In regulation 61 of the Income Support Regulations (interpretation)(**19**) in the definition of “a course of advanced education” for the word “Technician” in each place where it occurs there shall be substituted the word “Technology”.

Amendment of regulation 71 of the Income Support Regulations

17.—(1) Regulation 71(1) of the Income Support Regulations (applicable amounts in urgent cases)(**20**) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (a) after head (v) there shall be added the following head—

“(vi) the amount, if applicable, specified in paragraph 2A of Schedule 2;”.

(3) In sub-paragraph (b) before the words “, his weekly applicable amount” there shall be inserted the words “and has a preserved right”.

(4) In sub-paragraph (c)(i) the words “in respect of personal expenses as is” shall be omitted.

Amendment of Schedule 2 to the Income Support Regulations

18.—(1) Schedule 2 to the Income Support Regulations (applicable amounts) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 2A(4)(**21**) for the words from “and which” to “palliative” there shall be substituted the words “and whose primary function is to provide palliative care for persons resident there who are suffering from a progressive disease in its final stages”.

(3) In paragraph 13 (severe disability premium)(**22**) sub-paragraph (3)(b) shall be omitted.

(4) In sub-paragraph (a) of paragraph 14 (disabled child premium)(**23**) for the words “except where otherwise provided” there shall be substituted the words “except as provided in regulation 44(1) (modifications in respect of children and young persons)”.

(19) Relevant amending instrument is S.I. [1992/2155](#)

(20) Relevant amending instruments are S.I. [1988/663](#) and [1445](#), [1989/534](#) and [1034](#) and [1992/3147](#)

(21) Paragraph 2A was inserted by S.I. [1992/3147](#) and amended by S.I. [1993/518](#) and [1219](#).

(22) Relevant amending instruments are S.I. [1988/663](#), [1989/1678](#), [1991/2742](#) and [1993/1150](#)

(23) Relevant amending instrument is S.I. [1992/2742](#).

Amendment of Schedule 3 to the Income Support Regulations

19.—(1) Schedule 3 to the Income Support Regulations (housing costs) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 1(**24**) there shall be added at the end the following sub-paragraph—

“(i) payments by way of rentcharge within the meaning of section 1 of the Rent charges Act 1977(**25**).”.

(3) In paragraph 5(b)(**26**) for the words “to which regulation 19 (applicable amounts for persons in residential care and nursing homes) applies” there shall be substituted the words “which is a residential care home or a nursing home for the purposes of regulation 19 (applicable amounts for persons in residential care and nursing homes)”.

(4) In paragraph 9—

(a) in sub-paragraph (1) for the words “(c) to (h)” there shall be substituted the words “(c) to (i)”;

(b) in sub-paragraphs (3) and (4) for the words “(c) to (g)” in each place where they occur there shall be substituted the words “(c) to (i)”.

Amendment of Schedule 4 to the Income Support Regulations

20.—(1) Schedule 4 to the Income Support Regulations (applicable amounts of persons in residential care and nursing homes) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 6—

(a) for head (b) of sub-paragraph (2)(**27**) there shall be substituted the following head—

“(b) he—

(i) is entitled to attendance allowance at the higher rate in accordance with section 65(3) of the Contributions and Benefits Act, or the care component of disability living allowance at the highest rate prescribed in accordance with section 72(3) of the Contributions and Benefits Act, or

(ii) has made a claim for attendance allowance or disability living allowance and, in respect of that claim, a decision has been made that he satisfies the disability conditions, but he has not yet completed the qualifying period for that benefit; or”;

(b) after sub-paragraph (2) there shall be added the following sub-paragraph—

“(3) In this paragraph—

(a) “the disability conditions” means—

(i) in the case of attendance allowance, the conditions in section 64(2) and (3) of the Contributions and Benefits Act; and

(ii) in the case of disability living allowance, the conditions in section 72(1) (b) and (c) of the Contributions and Benefits Act;

(b) “the qualifying period” means—

(i) in the case of attendance allowance, the period specified in section 65(1) (b) of the Contributions and Benefits Act; and

(24) Relevant amending instruments are S.I. 1988/663, 1445 and 2022 and 1993/30

(25) 1977 c. 30

(26) Relevant amending instrument is S.I. 1989/534

(27) Relevant amending instrument is S.I. 1991/2742

(ii) in the case of disability living allowance, the period specified in section 72(2)(a) of the Contributions and Benefits Act.”.

(3) In paragraph 11(2)(28) for the words from “immediately” to “in force” there shall be substituted the words “in Schedule 3C”.(29)

Amendment of Schedule 7 to the Income Support Regulations

21.—(1) Schedule 7 to the Income Support Regulations (applicable amounts in special cases) shall be amended in accordance with the following provisions of this regulation.

(2) For the sum “£11.20” there shall be substituted the sum “£12.65” in the second column of each of the following paragraphs—

- (a) 10A(30) (single claimants temporarily in local authority accommodation);
- (b) 10B (1), (2), and (3)(31) (couples and members of polygamous marriages where one member is or all are temporarily in local authority accommodation);
- (c) 10C(32) (lone parents who are in residential accommodation temporarily);
- (d) 13(1)(a)(33) (persons in residential accommodation).

(3) In column (1) of paragraph 16 (persons temporarily absent from a hostel, residential care or nursing home)(34) for the words from “Where a person” to “would apply and” there shall be substituted the following words—

“Where a person is temporarily absent from accommodation for which he is liable to pay a retaining fee, and but for his temporary absence from that accommodation his applicable amount would be calculated in accordance with regulation 19 (applicable amounts for persons in residential care and nursing homes), and”.

Amendment of Schedule 8 to the Income Support Regulations

22.—(1) Schedule 8 to the Income Support Regulations (sums to be disregarded in the calculation of earnings) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 1(35) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) where—

- (i) the employment has not been terminated, but
- (ii) the claimant is not engaged in remunerative work,

any earnings in respect of that employment except earnings to which regulation 35(1) (d) and (e) applies; but this sub-paragraph shall not apply where the claimant has been suspended from his employment.”.

(3) For paragraph 2(36) there shall be substituted the following paragraph—

“2. In the case of a claimant who, before the date of claim—

(28) Relevant amending instrument is S.I. 1989/534

(29) Schedule 3C was inserted by S.I. 1992/3147

(30) Paragraph 10A was inserted by S.I. 1988/663 and amended by S.I. 1988/2022, 1989/534, 1990/547, 1992/3147 and 1993/349

(31) Paragraph 10B was inserted by S.I. 1988/663 and amended by S.I. 1989/534, 1990/547, 1992/3147 and 1993/349

(32) Paragraph 10C was inserted by S.I. 1988/2022 and amended by S.I. 1990/547, 1992/3147 and 1993/349

(33) Relevant amending instruments are S.I. 1988/1445, 1990/547, 1992/3147 and 1993/349

(34) Relevant amending instruments are S.I. 1988/663 and 1445, 1989/534 and 1992/3147.

(35) Relevant amending instruments are S.I. 1988/663 and 1445 and 1989/1323

(36) Relevant amending instruments are S.I. 1988/633 and 1445

- (a) has been engaged in part-time employment as an employed earner or, where the employment has been outside Great Britain, would have been so engaged had the employment been in Great Britain, and
 - (b) has ceased to be engaged in that employment, whether or not that employment has been terminated,
- any earnings in respect of that employment except any payment to which regulation 35(1)(e) applies; but this paragraph shall not apply where the claimant has been suspended from his employment.”.

Amendment of Schedule 9 to the Income Support Regulations

23.—(1) Schedule 9 to the Income Support Regulations (sums to be disregarded in the calculation of income other than earnings) shall be amended in accordance with the following provisions of this regulation.

- (2) Paragraph 9A(37) shall be omitted.
- (3) In paragraph 15(38)—
 - (a) for sub-paragraph (1) there shall be substituted the following sub-paragraph—

“(1) Subject to sub-paragraph (3) and paragraphs 36, 37 and 39, £10 of any charitable payment or of any voluntary payment made or due to be made at regular intervals, except any payment to which sub-paragraph (2) or paragraph 15A applies.”;
 - (b) in sub-paragraph (2) for the words “sub-paragraph (3)” there shall be substituted the words “sub-paragraphs (3) and (6)”;
 - (c) for sub-paragraph (6) there shall be substituted the following sub-paragraph—

“(6) Sub-paragraph (2) shall apply to a claimant in a residential care home or nursing home only if his applicable amount falls to be calculated in accordance with regulation 19.”.
- (4) In paragraph 16(a) after the words “such a pension” there shall be inserted the words “, except in so far as such a pension or payment falls to be disregarded under paragraphs 8 or 9”.
- (5) In paragraph 29(39)—
 - (a) in sub-paragraph (1) at the beginning there shall be inserted the words “Subject to sub-paragraph (3),”;
 - (b) after sub-paragraph (2) there shall be added the following sub-paragraph—

“(3) This paragraph shall not apply to any payment which is treated as possessed by the claimant by virtue of regulation 42(4)(a)(ii) (notional income).”.
- (6) After paragraph 30 there shall be inserted the following paragraph—

“**30A.**—(1) Subject to sub-paragraphs (2) and (3), in the case of a claimant in a residential care home or nursing home, any payment, whether or not the payment is charitable or voluntary but not a payment to which paragraph 15A applies, made to the claimant which is intended to be used and is used to meet the cost of maintaining the claimant in that home.

(2) This paragraph shall not apply to a claimant for whom accommodation in a residential care home or nursing home is provided by a local authority under section 26 of the National

(37) Paragraph 9A was inserted by S.I. [1991/2742](#)

(38) Relevant amending instruments are S.I. [1990/547](#), [1991/1559](#), [1992/3147](#) and [1993/518](#)

(39) Relevant amending instrument is S.I. [1993/1679](#)

Assistance Act 1948(40), or whose applicable amount falls to be calculated in accordance with regulation 19.

(3) The amount to be disregarded under this paragraph shall not exceed the difference between—

- (a) the claimant’s applicable amount less any of the amounts referred to in paragraph 13 of Schedule 4 (personal allowances) which would be applicable to the claimant if his applicable amount fell to be calculated in accordance with that Schedule, and
- (b) the weekly charge for the accommodation.”.

Amendment of Schedule 10 to the Income Support Regulations

24. In paragraph 30 of Schedule 10 to the Income Support Regulations (capital to be disregarded)(41) for the words “Any payment not exceeding £200” there shall be substituted the words “£200 of any payment, or, if the payment is less than £200, the whole of any payment”.

Amendment of regulation 2 of the Family Credit Regulations

25. In regulation 2(1) of the Family Credit Regulations (interpretation)—

(a) after the definition of “lower rate” there shall be inserted the following definition—

““maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part III of the Employment Protection (Consolidation) Act 1978(42);”;

(b) after the definition of “payment” there shall be inserted the following definition—

““personal pension scheme” has the same meaning as in section 84(1) of the Act and, in the case of a self-employed earner, includes a scheme approved by the Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(43);”.

(40) 1948 c. 29; section 21 was amended by the Local Government Act 1972 (c. 70), Schedule 23, paragraphs 1 and 2 and Schedule 30; the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 44 and Schedule 5; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule; the National Health Service Act 1977 (c. 49), Schedule 15, paragraph 5; the Health Services Act 1980 (c. 53), Schedule 1, Part I, paragraph 5; and the National Health Service and Community Care Act 1990 (c. 19), section 42(1), Schedule 9, paragraph 5(1) and (2) and Schedule 10. Section 22 was amended by the Social Work (Scotland) Act 1968 (c. 49), section 87(4) and Schedule 9, Part I; the Supplementary Benefits Act 1976 (c. 71), Schedule 7, paragraph 3; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule; the Social Security Act 1980 (c. 30), section 20, Schedule 4, paragraph 2(1) and Schedule 5, Part II; the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 20(1)(a), and the National Health Service and Community Care Act 1990, section 44, Schedule 10. Section 24 was amended by the National Assistance (Amendment) Act 1959 (c. 30), section 1(1); the National Health Service (Scotland) Act 1972 (c. 58), Schedule 6, paragraph 82; the Local Government Act 1972 (c. 70), Schedule 23, paragraph 2; the National Health Service Reorganisation Act 1973 (c. 32), Schedule 4, paragraph 45; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule, and the National Health Service and Community Care Act 1990, Schedule 9, paragraph 5(4). Section 26 was amended by the Health Services and Public Health Act 1968 (c. 46), section 44 and Schedule 4; the Social Work (Scotland) Act 1968 (c. 49), Schedule 9, Part I and applied by section 87(3); the Local Government Act 1972 (c. 70), Schedule 23, paragraph 2; the Housing (Homeless Persons) Act 1977 (c. 48), Schedule; the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), section 20(1)(b), the National Health Service and Community Care Act 1990, section 42(3) to (5), Schedule 9, paragraph 5(5), and Schedule 10, and section 1 of the Community Care (Residential Accommodation) Act 1992 (c. 49)

(41) Paragraph 30 was added by S.I. 1988/1445; relevant amending instrument is S.I. 1991/387

(42) 1978 c. 44; section 33 was amended by the Social Security Act 1986 (c. 50), section 86, Schedule 10, Part IV, paragraph 75, Schedule 11; the Employment Act 1980 (c. 42), sections 11(1) and (2), 20, Schedule 2; the Nurses, Midwives and Health Visitors Act 1979 (c. 36), section 23(4), Schedule 7, paragraph 31. Sections 34 to 44 were repealed by the Social Security Act 1986, sections 49(3), 86(2), Schedule 4, Part III, Schedule 11. Section 45 has been amended prospectively by the Social Security 1989 (c. 24), section 23, Schedule 5, Part II, paragraph 15; Schedule 5, paragraph 15 has been repealed prospectively by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 51, Schedule 10. Section 47 was amended by the Employment Act 1980 (c. 42), section 11(3). Part III of the 1978 Act has been amended prospectively by the Trade Union Reform and Employment Rights Act 1993, sections 23 and 25, Schedules 2 and 3

(43) 1988 c. 1

Amendment of regulation 4 of the Family Credit Regulations

26. In regulation 4 of the Family Credit Regulations (remunerative work)(44) for paragraph (6) there shall be substituted the following paragraph—

- “(6) For the purposes of paragraph (5)—
- (a) work which a person does only qualifies if—
 - (i) it is the work he normally does, and
 - (ii) it is likely to last for a period of 5 weeks or more beginning with the week of claim; and
 - (b) a person shall be treated as not on a recognised, customary or other holiday on any day on which the person is on maternity leave or is absent from work because he is ill.”.

Amendment of regulation 9 of the Family Credit Regulations

27. In regulation 9 of the Family Credit Regulations (circumstances in which a person is to be treated as being no longer a member of the same household)(45) for paragraph (1) there shall be substituted the following paragraph—

- “(1) Subject to the following provisions of this regulation, where the claimant and any partner of his are living apart from each other they shall be treated as members of the same household unless they do not intend to resume living together.”.

Amendment of regulation 16 of the Family Credit Regulations

28.—(1) Regulation 16 of the Family Credit Regulations (normal weekly income other than earnings)(46) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “a claimant’s normal weekly income which does not consist of earnings” there shall be substituted the words “where a claimant’s normal weekly income does not consist of earnings, or includes income that does not consist of earnings, that income”.

(3) In paragraph (2)(a) after the words “at regular intervals” there shall be inserted the words “and of regular amounts”.

(4) In paragraph (2A)(47)—

- (a) in sub-paragraph (a) after the words “at regular intervals” there shall be inserted the words “and of regular amounts”;
- (b) in sub-paragraph (b) after the words “not so made,” there shall be inserted the words “except in a case to which sub-paragraph (c) applies,”;
- (c) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

“(c) where the maintenance assessment has been notified to the claimant under regulation 10 of the Child Support (Maintenance Assessment Procedure) Regulations 1992(48) during the 13 weeks immediately preceding the week of claim, by reference to the average of such payments, calculated on a weekly basis, received in the interim period,”.

(5) In paragraph (4)(49) at the end there shall be added the following sub-paragraph—

(44) Relevant amending instrument is S.I. [1992/573](#)

(45) Relevant amending instrument is S.I. [1988/660](#)

(46) Relevant amending instruments are S.I. [1988/1970](#) and [1993/315](#)

(47) Paragraph (2A) was inserted by S.I. [1993/315](#)

(48) S.I. [1992/1813](#)

(49) Paragraph (4) was added by S.I. [1993/315](#)

- “(c) “the interim period” means the week in which the date of notification of the maintenance assessment falls and the subsequent period up to and including the week immediately preceding the week of claim.”.

Amendment of regulation 22 of the Family Credit Regulations

29.—(1) Regulation 22 of the Family Credit Regulations (calculation of net profit of self-employed earners)(**50**) shall be amended in accordance with the following provisions of this regulation.

(2) For the words “one-half of any qualifying premium payable” in each place where they occur there shall be substituted the words “one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme”.

(3) For paragraph (12) there shall be substituted the following paragraph—

“(12) In this regulation “retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium.”.

Amendment of regulation 24 of the Family Credit Regulations

30. In regulation 24(1) of the Family Credit Regulations (calculation of income other than earnings)(**51**) for the words from “regulation 25” to the end of the paragraph there shall be substituted the words “regulations 25 and 27 (capital treated as income and modifications in respect of children and young persons).”.

Amendment of regulation 27 of the Family Credit Regulations

31.—(1) Regulation 27 of the Family Credit Regulations (modifications in respect of children and young persons)(**52**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) the words “, except where otherwise provided,” shall be omitted.

(3) In paragraph (2) for the words “the foregoing provisions” there shall be substituted the words “Chapters I to V”.

(4) In paragraph (3) for the words “except where otherwise provided” there shall be substituted the words “except as provided in paragraph (1)”.

Amendment of regulation 37 of the Family Credit Regulations

32. In regulation 37 of the Family Credit Regulations (interpretation)(**53**) in the definition of “a course of advanced education” for the word “Technician” in each place where it occurs there shall be substituted the word “Technology”.

Amendment of regulation 46 of the Family Credit Regulations

33. In regulation 46(4) of the Family Credit Regulations (determination of appropriate maximum family credit) for the words “except where otherwise provided” there shall be substituted the words “except as provided in regulation 27(1) (modifications in respect of children and young persons)”.

(50) Relevant amending instrument is S.I. [1988/1970](#)

(51) Relevant amending instruments are S.I. [1990/574](#) and [1549](#) and [1991/1520](#)

(52) Relevant amending instrument is S.I. [1993/315](#)

(53) Relevant amending instrument is S.I. [1992/2155](#)

Amendment of Schedule 2 to the Family Credit Regulations

34. In paragraph 14(a) of Schedule 2 to the Family Credit Regulations (sums to be disregarded in the calculation of income other than earnings)⁽⁵⁴⁾ after the words “such a pension” there shall be inserted the words “, except in so far as such a pension or payment falls to be disregarded under paragraphs 6 or 7”.

Amendment of Schedule 3 to the Family Credit Regulations

35.—(1) Schedule 3 to the Family Credit Regulations (capital to be disregarded) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph 21⁽⁵⁵⁾ there shall be substituted the following paragraph—

“**21.** Any capital which by virtue of regulations 25 (capital treated as income), 27(1) (modifications in respect of children and young persons) or 42A (treatment of student loans) is to be treated as income.”.

(3) In paragraph 32⁽⁵⁶⁾ for the words “Any payment not exceeding £200” there shall be substituted the words “£200 of any payment, or, if the payment is less than £200, the whole of any payment”.

Amendment of regulation 2 of the Disability Working Allowance Regulations

36. In regulation 2(1) of the Disability Working Allowance Regulations (interpretation)—

(a) after the definition of “lower rate” there shall be inserted the following definition—

““maternity leave” means a period during which a woman is absent from work because she is pregnant or has given birth to a child, and at the end of which she has a right to return to work either under the terms of her contract of employment or under Part III of the Employment Protection (Consolidation) Act 1978⁽⁵⁷⁾”; and

(b) after the definition of “payment” there shall be inserted the following definition—

““personal pension scheme” has the same meaning as in section 84(1) of the Act and, in the case of a self-employed earner, includes a scheme approved by the Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988⁽⁵⁸⁾”.

Amendment of regulation 6 of the Disability Working Allowance Regulations

37. In regulation 6 of the Disability Working Allowance Regulations (remunerative work)⁽⁵⁹⁾ for paragraph (6) there shall be substituted the following paragraph—

“(6) For the purposes of paragraph (5)—

(a) work which a person does only qualifies if—

⁽⁵⁴⁾ Relevant amending instruments are S.I. [1990/574](#) and [1991/1520](#)

⁽⁵⁵⁾ Relevant amending instrument is S.I. [1990/1549](#)

⁽⁵⁶⁾ Paragraph 32 was added by S.I. [1988/1438](#); relevant amending instruments are S.I. [1988/1970](#) and [1991/387](#)

⁽⁵⁷⁾ [1978 c. 44](#); section 33 was amended by the Social Security Act 1986 (c. 50), section 86, Schedule 10, Part IV, paragraph 75, Schedule 11; the Employment Act 1980 (c. 42), sections 11(1) and (2), 20, Schedule 2; the Nurses, Midwives and Health Visitors Act 1979 (c. 36), section 23(4), Schedule 7, paragraph 31. Sections 34 to 44 were repealed by the Social Security Act 1986, sections 49(3), 86(2), Schedule 4, Part III, Schedule 11. Section 45 has been amended prospectively by the Social Security Act 1989 (c. 24), section 23, Schedule 5, Part II, paragraph 15; Schedule 5, paragraph 15 has been repealed prospectively by the Trade Union Reform and Employment Rights Act 1993 (c. 19), section 51, Schedule 10. Section 47 was amended by the Employment Act 1980 (c. 42), section 11(3). Part III of the 1978 Act has been amended prospectively by the Trade Union Reform and Employment Rights Act 1993, sections 23 and 25, Schedules 2 and 3

⁽⁵⁸⁾ [1988 c. 1](#)

⁽⁵⁹⁾ Relevant amending instrument is S.I. [1992/2155](#)

- (i) it is the work which he normally does, and
- (ii) it is likely to last for a period of 5 weeks or more beginning with the week in which the claim is made; and
- (b) a person shall be treated as not on a recognised, customary or other holiday on any day on which the person is on maternity leave or is absent from work because he is ill.”.

Amendment of regulation 11 of the Disability Working Allowance Regulations

38. In regulation 11 of the Disability Working Allowance Regulations (circumstances in which a person is to be treated as being no longer a member of the same household) for paragraph (1) there shall be substituted the following paragraph—

“(1) Subject to the following provisions of this regulation, where the claimant and any partner of his are living apart from each other they shall be treated as members of the same household unless they do not intend to resume living together.”.

Amendment of regulation 18 of the Disability Working Allowance Regulations

39.—(1) Regulation 18 of the Disability Working Allowance Regulations (normal weekly income other than earnings)(**60**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “a claimant’s normal weekly income which does not consist of earnings” there shall be substituted the words “where a claimant’s normal weekly income does not consist of earnings, or includes income that does not consist of earnings, that income”.

(3) In paragraph (2)(a), after the words “at regular intervals” there shall be inserted the words “and of regular amounts”.

(4) In paragraph (2A)(**61**)—

- (a) in sub-paragraph (a) after the words “at regular intervals” there shall be inserted the words “and of regular amounts”;
- (b) in sub-paragraph (b) after the words “not so made,” there shall be inserted the words “except in a case to which sub-paragraph (c) applies,”;
- (c) after sub-paragraph (b) there shall be inserted the following sub-paragraph—

“(c) where the maintenance assessment has been notified to the claimant under regulation 10 of the Child Support (Maintenance Assessment Procedure) Regulations 1992(**62**) during the 13 weeks immediately preceding the week of claim, by reference to the average of such payments, calculated on a weekly basis, received in the interim period,”.

(5) In paragraph (4)(**63**) at the end there shall be added the following sub-paragraph—

“(c) “the interim period” means the week in which the date of notification of the maintenance assessment falls and the subsequent period up to and including the week immediately preceding the week of claim.”.

(60) Relevant amending instrument is S.I. 1993/315.

(61) Paragraph (2A) was inserted by S.I. 1993/315

(62) S.I. 1992/1813

(63) Paragraph (4) was added by S.I. 1993/315

Amendment of regulation 25 of the Disability Working Allowance Regulations

40.—(1) Regulation 25 of the Disability Working Allowance Regulations (calculation of net profit of self-employed earners)(**64**) shall be amended in accordance with the following provisions of this regulation.

(2) For the words “one-half of any qualifying premium payable” in each place where they occur there shall be substituted the words “one half of any premium paid in respect of a retirement annuity contract or a personal pension scheme”.

(3) For paragraph (14) there shall be substituted the following paragraph—

“(14) In this regulation “retirement annuity contract” means an annuity contract for the time being approved by the Board of Inland Revenue as having for its main object the provision of a life annuity in old age or the provision of an annuity for a partner or dependant and in respect of which relief from income tax may be given on any premium.”.

Amendment of regulation 27 of the Disability Working Allowance Regulations

41. In regulation 27(1) of the Disability Working Allowance Regulations (calculation of income other than earnings) for the words from “regulation 28” to the end of the paragraph there shall be substituted the words “regulations 28 and 30 (capital treated as income and modifications in respect of children and young persons).”.

Amendment of regulation 30 of the Disability Working Allowance Regulations

42.—(1) Regulation 30 of the Disability Working Allowance Regulations (modifications in respect of children and young persons)(**65**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) the words “, except where otherwise provided,” shall be omitted.

(3) In paragraph (2) for the words “the foregoing provisions” there shall be substituted the words “Chapters I to V”.

(4) In paragraph (3) for the words “except where otherwise provided” there shall be substituted the words “except as provided in paragraph (1)”.

Amendment of regulation 41 of the Disability Working Allowance Regulations

43. In regulation 41 of the Disability Working Allowance Regulations (interpretation)(**66**) in the definition of “a course of advanced education” for the word “Technician” in each place where it occurs there shall be substituted the word “Technology”.

Amendment of regulation 51 of the Disability Working Allowance Regulations

44. In regulation 51(4) of the Disability Working Allowance Regulations (determination of appropriate maximum disability working allowance) for the words “except where otherwise provided” there shall be substituted the words “except as provided in regulation 30(1) (modifications in respect of children and young persons)”.

Amendment of Schedule 3 to the Disability Working Allowance Regulations

45. In paragraph 14(a) of Schedule 3 to the Disability Working Allowance Regulations (sums to be disregarded in the calculation of income other than earnings) after the words “such a pension”

(64) Relevant amending instrument is S.I. [1992/2155](#)

(65) Relevant amending instrument is S.I. [1993/315](#)

(66) Relevant amending instrument is S.I. [1992/2155](#).

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there shall be inserted the words “, except in so far as such a pension or payment falls to be disregarded under paragraphs 6 or 7”.

Amendment of Schedule 4 to the Disability Working Allowance Regulations

46.—(1) Schedule 4 to the Disability Working Allowance Regulations (capital to be disregarded) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 21 after the words “(capital treated as income)” there shall be inserted the words “, 30(1) (modifications in respect of children and young persons)”.

(3) In paragraph 32 for the words “Any payment not exceeding £200” there shall be substituted the words “£200 of any payment, or, if the payment is less than £200, the whole of any payment”.

Signed by authority of the Secretary of State for Social Security

25th August 1993

Alistair Burt
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further amendments to the Income Support (General) Regulations 1987 (S.I.1987/1967), the Family Credit (General) Regulations 1987 (S.I. 1987/1973) and the Disability Working Allowance (General) Regulations 1991 (S.I. 1991/2887) in the following respects—

- (a) they provide definitions of “maternity leave” and “personal pension scheme”(regulations 2, 25 and 36);
- (b) they make a minor amendment to the definition of “advanced education”(regulations 4, 16, 32 and 43);
- (c) they amend the provisions specifying the circumstances in which a person is to be treated as being or not being a member of the household (regulations 6, 27 and 38);
- (d) they make minor amendments with respect to the calculation of the income and capital of a child (regulations 7, 8, 15, 18, 31, 33, 42 and 44);
- (e) they provide that, in the calculation of net profits of the self-employed, a proportion of any premium paid towards a personal pension scheme shall be disregarded (regulations 13, 29 and 40);
- (f) with respect to the calculation of income other than earnings, they provide that the disregard of a specified amount of certain war pensions and payments is not to apply where the pension or payment falls to be disregarded under other specified provisions (regulations 23, 34 and 45);
- (g) with respect to the calculation of capital, they specify that £200 of certain payments made as a training bonus are to be disregarded (regulations 24, 35 and 46).

With respect to the Income Support (General) Regulations 1987—

- (a) they provide a definition of “date of claim” (regulation 2);
- (b) they provide that a person who is absent from work owing to illness or maternity is not to be treated as engaged in remunerative work (regulation 3);
- (c) they amend the provisions specifying the circumstances in which a person is to be treated as responsible for a child or young person (regulation 5);
- (d) with respect to the calculation of applicable amounts for people in residential care and nursing homes who have preserved rights, they amend the definition of “residential care home” for this purpose and make other consequential and minor amendments, they amend the provision specifying the maximum levels payable for people in residential care homes, and they make a minor amendment to the definition of “the Greater London Area” (regulations 9 and 20);
- (e) they make a minor amendment to the definition of “residential accommodation” as it affects a certain category of people (regulation 10);
- (f) they alter from 52 weeks to a year the period by reference to which the earnings of the self-employed are to be determined (regulation 11);
- (g) with respect to the calculation of earnings of self-employed earners, they amend the provisions specifying the amount to be deducted in respect of social security contributions (regulation 14);

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- (h) they amend the provisions which specify the calculation of applicable amounts in urgent cases (regulation 17);
- (i) with respect to the applicable amount, they amend the definition of “hospice”, which affects entitlement to the residential allowance, and they amend the conditions relating to the severe disability premium (regulation 18);
- (j) with respect to housing costs, they add rentcharges to the list of eligible costs, and they amend the provision specifying that costs in respect of residential care or nursing homes are excluded (regulation 19);
- (k) they alter the element of personal expenses contained in the applicable amount of people in specified types of accommodation, and they make minor amendments to the circumstances in which a person’s applicable amount may include a retaining fee in respect of a residential care or nursing home (regulation 21);
- (l) with respect to the calculation of earnings of employed earners, they amend the provision relating to the disregard of certain earnings where the employment has been terminated or the claimant has ceased to be engaged in work (regulation 22);
- (m) with respect to the calculation of income other than earnings, they amend the provisions specifying that certain payments are not to be treated as earnings, they make a minor amendment in relation to the disregard of disability living allowance, they provide additional disregards in respect of certain payments made to people in residential care and nursing homes, and they amend the provision specifying that certain payments under mortgage protection policies are to be disregarded (regulations 12 and 23).

With respect to the Family Credit (General) Regulations 1987 and the Disability Working Allowance (General) Regulations 1991—

- (a) they provide that a person who is absent from work owing to illness or maternity shall not be regarded as on holiday (regulations 26 and 37);
- (b) they amend the provisions specifying the method of calculation of normal weekly income other than earnings (regulations 28, 30, 39 and 41);
- (c) they make minor amendments with respect to the disregard of any capital which is treated as income (regulations 35 and 46).

These Regulations do not impose a charge on businesses.