
STATUTORY INSTRUMENTS

1996 No. 2431

SOCIAL SECURITY

The Income Support and Social Security (Claims and Payments) (Miscellaneous Amendments) Regulations 1996

Made - - - - *19th September 1996*
Laid before Parliament *24th September 1996*
Coming into force - - *15th October 1996*

The Secretary of State for Social Security, in exercise of powers conferred upon him by sections 135, 136(5)(b), 137(1) and 175(1) and (3) to (5) of the Social Security Contributions and Benefits Act 1992⁽¹⁾, sections 5(1)(a) and (b), 71(6)(b), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992⁽²⁾ and section 11 of the Asylum and Immigration Act 1996⁽³⁾ and of all other powers enabling him in that behalf, by this instrument which contains only regulations made by virtue of, or consequential upon the aforesaid section 11 and which are made before the end of the period of 6 months beginning with the coming into force of that enactment⁽⁴⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income Support and Social Security (Claims and Payments) (Miscellaneous Amendments) Regulations 1996 and shall come into force on 15th October 1996.

(2) In these Regulations “the principal Regulations” shall mean the Income Support (General) Regulations 1987⁽⁵⁾.

Amendment of regulation 21 of the principal Regulations

2. In paragraph (1) of regulation 21 of the principal Regulations (special cases) after the words “Subject to” there shall be inserted the words “regulation 21ZA (treatment of refugees) and”.

(1) 1992 c. 4; section 137(1) is an interpretation provision and is cited because of the meaning assigned to the word “prescribed”.
(2) 1992 c. 5; section 191 is an interpretation provision and is cited because of the meaning assigned to the word “prescribed”.
(3) 1996 c. 49.
(4) See the Social Security Administration Act 1992 (c. 5) section 173(5)(b).
(5) S.I.1987/1967; relevant amending instruments S.I. 1988/999, 2022, 1990/127, 2324, 1991/1101, 1175, 1993/315, 963, 1249, 1994/527, 2139, 1995/516 and 1996/30, 206 and 462.

Insertion of regulation 21ZA in the principal Regulations

3. After regulation 21 of the principal Regulations there shall be inserted the following regulation—

“Treatment of refugees

21ZA.—(1) Where a person has submitted a claim for asylum and is notified that he has been recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951⁽⁶⁾ as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967⁽⁷⁾ he shall cease to be a person from abroad for the purposes of regulation 21 (special cases) and Schedule 7 (applicable amounts in special cases) from the date he is so recorded.

(2) Except in the case of a refugee to whom paragraph (3) refers, a refugee to whom paragraph (1) applies, who claims income support within 28 days of receiving the notification referred to in that paragraph, shall have his claim for income support for whichever of the periods referred to in paragraph (4) applies in his case determined as if he had been an asylum seeker for the purposes of regulation 70 (urgent cases) in respect of any such period.

(3) A refugee to whom paragraph (1) applies, who was notified that he had been recorded as a refugee in the period from 24th July 1996 to 15th October 1996 and who claims income support within 28 days of the later date, shall have his claim for income support for whichever of the periods referred to in paragraph (4) applies in his case determined as if he had been an asylum seeker for the purposes of regulation 70 in respect of any such period.

(4) The periods to which this paragraph refers are—

- (a) in the case of a claimant who made a claim for asylum upon arrival in the United Kingdom, the period from the date on which his claim for asylum was first refused by the Secretary of State or 5th February 1996 if that is later, to the date he is recorded by the Secretary of State as a refugee;
- (b) in the case of a claimant whose claim for asylum is made other than on arrival in the United Kingdom, the period from the date of that claim, or 5th February 1996 if that is later, to the date he is recorded by the Secretary of State as a refugee.

(5) Any income support, which has otherwise been paid to the claimant or any partner of his in respect of any part of the period of an award to which paragraph (2) or (3) applies, shall be offset against any award due to the claimant by virtue of that paragraph except to the extent that the benefit paid to that partner was due in respect of a period during which he was not a partner of the claimant.”.

Amendment of regulation 72 of the principal Regulations

4. In regulation 72 of the principal Regulations (assessment of income and capital in urgent cases)

- (a) in sub-paragraph (1)(a) for the words “or 42” there shall be substituted the words “42, 52 or 57”;
- (b) in paragraph (2) for the words “and 32” there shall be substituted the words “, 32 and 47 to 49”.

(6) Cmd. 9171.

(7) Cmd. 3906.

Amendment of Schedule 9 to the principal Regulations

5. Schedule 9 to the principal Regulations (sums to be disregarded in the calculation of income other than earnings) shall be amended in the following respects—

(a) in paragraph 5 the following words shall be added at the end—

“including any amount of housing benefit to which a person is entitled by virtue of regulation 7B of the Housing Benefit (General) Regulations 1987 (entitlement of a refugee to housing benefit)(8).”;

(b) in paragraph 52(9) the following words shall be added at the end—

“including any amount of council tax benefit to which a person is entitled by virtue of regulation 4D of the Council Tax Benefit (General) Regulations 1992 (entitlement of a refugee to council tax benefit)(10).”;

(c) after paragraph 56(11) the following paragraph shall be added—

“57. Any amount of income support to which a person is entitled by virtue of regulation 21ZA above (treatment of refugees).”.

Amendment of Schedule 10 to the principal Regulations

6. In Schedule 10 to the principal Regulations (capital to be disregarded)(12) the following paragraphs shall be added at the end—

“47. Any amount of council tax benefit to which a person is entitled by virtue of regulation 4D of the Council Tax Benefit (General) Regulations 1992 (entitlement of a refugee to council tax benefit), but only for a period of 52 weeks from the date that such an amount is received.

48. Any amount of housing benefit to which a person is entitled by virtue of regulation 7B of the Housing Benefit (General) Regulations 1987 (entitlement of a refugee to housing benefit), but only for a period of 52 weeks from the date that such an amount is received.

49. Any amount of income support to which a person is entitled by virtue of regulation 21ZA above (treatment of refugees), but only for a period of 52 weeks from the date that such an amount is received.”.

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

7. The Social Security (Claims and Payments) Regulations 1987(13) shall be amended in accordance with the following paragraphs—

(a) in regulation 2(1) (interpretation) the following definitions shall be inserted in the appropriate places—

““claim for asylum” has the same meaning as in the Asylum and Immigration Appeals Act 1993;(14)

““refugee” means a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(15) as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(16);”;

(8) Regulation 7B was inserted by S.I. 1996/2432.

(9) Paragraph 52 was inserted in Schedule 9 by S.I. 1993/315.

(10) Regulation 4D was inserted by S.I. 1996/2432.

(11) Paragraph 56 was added to Schedule 9 by S.I. 1994/2139.

(12) Paragraph 46 was added by S.I. 1996/462.

(13) S.I. 1987/1968; relevant amending instruments S.I. 1988/522, 1991/2284, 2741 and 1996/1460.

(14) 1993 c. 23.

(15) Cmd. 9171.

- (b) in regulation 4 (making a claim for benefit)—
- (i) in paragraph (3) at the beginning there shall be inserted the words “Subject to paragraph (3C),”;
 - (ii) after paragraph (3B)(17) the following paragraph shall be inserted—

“(3C) In the case of a claim for income support for a period to which regulation 21ZA(2) of the Income Support (General) Regulations 1987 (treatment of refugees)(18) refers, the claim shall be made by the refugee or in the case of a married or unmarried couple both of whom are refugees, by either of them.”;
- (c) in regulation 6 (date of claim) after paragraph (4C)(19) the following paragraph shall be inserted—
- “(4D) In the case of a claim for income support to which regulation 4(3C) (claim by refugee) refers, the claim shall be treated as made—
- (a) in the case of a claimant who made a claim for asylum upon arrival in the United Kingdom, on the date on which his claim for asylum was first refused by the Secretary of State; or
 - (b) in the case of a claimant whose claim for asylum was made other than on arrival in the United Kingdom, on the date of that claim for asylum.”;
- (d) in regulation 19 (time for claiming benefit) after paragraph (1) the following paragraph shall be inserted—
- “(1A) This regulation shall not have effect with respect to a claim to which regulation 21ZA(2) of the Income Support (General) Regulations 1987 (treatment of refugees) applies.”.

19th September 1996

Peter Lilley
Secretary of State, Department of Social Security

(16) Cmd. 3906.

(17) Paragraph (3B) was inserted by S.I. 1996/1460.

(18) Regulation 21ZA was inserted by regulation 3 of these Regulations.

(19) Paragraph (4C) was inserted by S.I. 1996/1460.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations 1987 (S.I.1987/1968), the Income Support (General) Regulations 1987 (S.I.1987/1967) so as to provide with respect to a claimant for income support for his entitlement to that benefit for the period from the date of his claim for asylum or 5th February 1996 if that is later to the date of his being recorded by the Secretary of State as a refugee within the Convention relating to the Status of Refugees done at Geneva on 28th July 1951 (Cmd 9171).

These Regulations are made under section 11 of the Asylum and Immigration Act 1996 and contain only regulations made by virtue of or consequential upon the aforesaid section 11 and which are made before the end of the period of 6 months beginning with the coming into force of that enactment. Accordingly they are exempted from reference to the Social Security Advisory Committee and have not been so referred.

These Regulations do not impose a charge upon businesses.