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STATUTORY INSTRUMENTS

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**2009 No. 583**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous  
Amendments) Regulations 2009**

*Made - - - - 9th March 2009*

*Laid before Parliament 11th March 2009*

*Coming into force in accordance with regulation 1*

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

- sections 123(1)(a), (d) and (e), 124(1)(d) and (e), 130(2), 131(3)(b) and (5)(c)(ii), 132(4) and (5), 135, 136(3) and (5)(a) and (b), 136A(3) and (4)(a), 137(1) and (2)(e), (f), (h), (i), (j) and (m), and 175(1) to (4) of the Social Security Contributions and Benefits Act 1992(1),
- sections 15A(2)(b), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(2),
- sections 4(5), 12(1) and (4)(a) and (b), 35 and 36 of, and paragraphs 1(1), 8, 8A and 9 of Schedule 1 to, the Jobseekers Act 1995(3),
- sections 15(1), (3), (4) and (6)(b) and 19(1) and (3) of the State Pension Credit Act 2002(4), and

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- (1) 1992 c.4. Section 123(1)(e) was substituted by paragraph 1(1) of Schedule 9 to the Local Government Finance Act 1992 (c.14). Section 124(1)(d) was inserted by paragraph 30(4) of Schedule 2 to the Jobseekers Act 1995 (c.18). Section 124(1)(e) was inserted by paragraph 30(5) of Schedule 2 to the Jobseekers Act 1995 and amended by Schedule 3 to the State Pension Credit Act 2002 (c.16). Section 130(2) was amended by paragraph 1(2) of Schedule 9 to the Local Government Finance Act 1992; paragraphs 1(1) and (3) of Schedule 5 to the Welfare Reform Act 2007 (c.5); and section 96(1) and (2) to the Local Government Act 2000 (c.22). Section 131(3)(b) and (5)(c)(ii) and 132(5) were substituted by paragraph 4 of Schedule 9 to the Local Government Finance Act 1992. Section 135(3) and (4) were repealed by Part 3 of Schedule 6 to the Health and Social Care Act 2001 (c.15). Section 135(5) was amended by Schedule 6 to the Tax Credits Act 2002 (c.21). Section 136A was inserted by paragraphs 1 and 3 of Schedule 2 to the State Pension Credit Act 2002. Section 137(1) is an interpretation provision and is cited because of the meaning there given to the word “prescribed”. Section 137(2)(d) was substituted by paragraph 35(3) of Schedule 2 to the Jobseekers Act 1995.
- (2) 1992 c.5. Section 15A was inserted by paragraph 1 of the Schedule to the Social Security (Mortgage Interest Payments) Act 1992 (c.33). Section 189(1) was amended by paragraph 109(a) of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c.14); 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 189(4) was amended by paragraph 109(c) of Schedule 7 and Schedule 8 to the Social Security Act 1998. Section 189(5) was amended by paragraph 109(d) of Schedule 7 and Schedule 8 to the Social Security Act 1998. Section 191 is an interpretation provision and is cited because of the meaning given to the word “prescribe”.
- (3) 1995 c.18. Section 35 is an interpretation provision and is cited because of the meaning given to the word “prescribed”. Section 36(1) was amended by paragraph 145 of Schedule 7 to the Social Security Act 1998 and paragraphs 29(1) and (6) of Schedule 8 to the Welfare Reform and Pensions Act 1999 (c.30). Section 36(4) was amended by paragraph 63 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999. Paragraph 8A of Schedule 1 was added by paragraphs 1 and 16(1) and (2) of Schedule 7 to the Welfare Reform and Pensions Act 1999.
- (4) 2002 c.16. Section 5 was amended by paragraph 140 of Part 13 of Schedule 24 to the Civil Partnership Act 2004 (c.33).

— sections 17, 24, 25(5) and 28(2)(b) of the Welfare Reform Act 2007(5).

The Social Security Advisory Committee have agreed that the proposals in respect of these Regulations should not be referred to it(6).

In respect of the provisions in these Regulations relating to housing benefit and council tax benefit, the Secretary of State has consulted the organisations appearing to him to be representative of the authorities concerned(7).

In respect of the provisions in these Regulations relating to mortgages, the Secretary of State has consulted with organisations representing qualifying lenders likely to be affected(8).

### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 2009 and come into force as follows.

(2) Subject to paragraphs (3) to (5), these Regulations come into force on 6th April 2009.

(3) Regulations 1, 3, 8(2)(b), (10)(a) and (b) and 9(8) come into force on 1st April 2009.

(4) Regulations 2(6) and (14)(a), 4(6) and (13)(a), 5(2), (3) and (5), 6(5) and (13)(a), 7(4), (5), (7)(b) and (8), 8(5) and (13)(a), 9(4), (5) and (9) and 10(4)(b) and (10)(a) come into force, in so far as they relate to a particular claimant, on the first day of the first benefit week to commence for that claimant on or after 6th April 2009.

(5) Regulations 6(2)(b), (10)(a) and (b) and 7(7)(a) come into force immediately after articles 19 and 20 of the Social Security Benefits Up-rating Order 2009(9) comes into force, and—

(a) in relation to a case where rent is payable at intervals of a week or any multiple of a week, on 6th April 2009, or

(b) in relation to any other case, on 1st April 2009.

(6) In this regulation “benefit week” has the same meaning as in—

(a) regulation 2(1) of the Income Support (General) Regulations 1987(10), so far as it relates to regulation 2(6) and (14)(a);

(b) regulation 1(3) of the Jobseeker’s Allowance Regulations 1996(11), so far as it relates to regulation 4(6) and (13)(a);

(c) regulation 1(2) of the State Pension Credit Regulations 2002(12), so far as it relates to regulation 5(2), (3) and (5);

(d) regulation 2(1) of the Housing Benefit Regulations 2006(13), so far as it relates to regulation 6(5) and (13)(a);

(e) regulation 2(1) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(14), so far as it relates to regulation 7(4), (5), (7) (b) and (8);

(5) 2007 c.5. Section 24 is an interpretation provision and is cited because of the meaning there given to the word “prescribed”.

(6) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992.

(7) See section 176(1) of the Social Security Administration Act 1992, as amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992.

(8) See section 15A of the Social Security Administration Act 1992.

(9) S.I. 2009/497.

(10) S.I. 1987/1967.

(11) S.I. 1996/207.

(12) S.I. 2002/1792.

(13) S.I. 2006/213.

(14) S.I. 2006/214.

- (f) regulation 2(1) of the Council Tax Benefit Regulations 2006(15), so far as it relates to regulation 8(5) and (13)(a);
- (g) regulation 2(1) of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(16), so far as it relates to regulation 9(4), (5) and (9);
- (h) regulation 2(1) of the Employment and Support Allowance Regulations 2008(17), so far as it relates to regulation 10(4)(b) and (10)(a).

### **Amendment of the Income Support (General) Regulations 1987**

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

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

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

““basic rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007(18) (see section 989 of that Act);”;

(b) omit the definition of “starting rate”(19).

(3) In—

(a) regulation 2(1) (interpretation), in paragraphs (a) and (c) of the definition of “training allowance”(20),

(b) Schedule 1B (prescribed categories of person), in paragraph 28(21),

(c) Schedule 2 (applicable amounts), in paragraph 7(1)(b)(22), and

(d) Schedule 3 (housing costs), in paragraph 3(13)(d),

before “Scottish Enterprise” insert “Skills Development Scotland,”.

(4) In regulation 4ZA(23) (prescribed categories of person), in paragraph (3)(b) after “12,” insert “15A,”.

(5) Omit regulation 21(1A)(24) (special cases).

(6) For regulation 30(2A)(25) (calculation of earnings of self-employed earners) substitute—

“(2A) This paragraph applies to—

(a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or

(b) any payment in respect of any —

(i) book registered under the Public Lending Right Scheme 1982; or

(ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,

where the claimant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.”.

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(15) S.I. 2006/215.

(16) S.I. 2006/216.

(17) S.I. 2008/794.

(18) 2007 c.3.

(19) The definition of “starting rate” was inserted by S.I. 2007/2618.

(20) For the definition of “training allowance” the relevant amending instruments are S.I. 1989/1323, 1991/236, 387, 1999/3156, 2001/652 and 2008/3157.

(21) Relevant amending instruments are S.I. 2001/652, 2005/3238, 2006/718 and 2008/3157.

(22) Relevant amending instruments are S.I. 1989/1678, 1991/236, 387 and 2008/698.

(23) Inserted by S.I. 1996/206.

(24) Inserted by S.I. 1991/1033.

(25) Paragraph (2A) was inserted by S.I. 2008/698.

- (7) In regulation 39(1)(**26**) (deduction of tax and contributions for self-employed earners) and in regulation 42(8)(a)(**27**) (notional income)—
- (a) omit “the starting rate or, as the case may be, the starting rate and”;
  - (b) for “starting” substitute “basic”.
- (8) In regulation 39D(**28**) (deduction in respect for participants in the self-employed route)—
- (a) in paragraph (1)(c) omit “the starting rate of tax or, as the case may be, the starting rate and”;
  - (b) in paragraph (2) for “starting” substitute “basic”.
- (9) In regulation 61(1)(**29**) (interpretation)—
- (a) for the definition of “contribution” substitute—
 

““contribution” means—

    - (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or
    - (b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following persons to contribute towards the holder’s expenses—
      - (i) the holder of the allowance or bursary;
      - (ii) the holder’s parents;
      - (iii) the holder’s parent’s spouse, civil partner or a person ordinarily living with the holder’s parent as if he or she were the spouse or civil partner of that parent; or
      - (iv) the holder’s spouse or civil partner;”;
    - (b) in paragraph (c) of the definition of “grant income”(**30**) for “or 12 of Schedule 1B applies (lone parent or disabled student)” substitute “, 12 or 15A of Schedule 1B applies (lone parent, disabled student or persons in education)”.
- (10) In regulation 62(2)(**31**) (calculation of grant income), after sub-paragraph (j) add—
- “(k) of higher education bursary for care leavers made under Part III of the Children Act 1989(**32**).”.
- (11) In regulation 66A(4)(a)(ii) (treatment of student loans) for “or 12 of Schedule 1B applies (lone parent or disabled student)” substitute “, 12 or 15A of Schedule 1B applies (lone parent, disabled student or persons in education)”.
- (12) In Schedule 1B (prescribed categories of person)—
- (a) in paragraph 3(a) before “ill” insert “temporarily” ;
  - (b) after paragraph 15 insert—

(26) Relevant amending instruments are [S.I. 1992/2155](#), [2007/1749](#) and [2618](#).

(27) Relevant amending instruments are [S.I. 1992/2155](#), [1994/2139](#), [2007/1749](#) and [2618](#).

(28) Inserted by [S.I. 1998/1174](#). Relevant amending instruments are [S.I. 2000/2910](#), [2007/1749](#) and [2618](#).

(29) For the definition of “contribution” the relevant amending instruments are [S.I. 1996/1944](#), [1998/563](#), [1999/1935](#), [2001/2319](#), [2005/2877](#) and [2008/2767](#).

(30) The relevant amending instrument is [S.I. 1997/2197](#).

(31) Relevant amending instruments are [S.I. 1996/1944](#), [1999/1935](#), [2003/455](#), [2004/1708](#), and [2005/574](#).

(32) [1989 c.41](#). Provisions relating to higher education bursaries for care leavers were inserted into the Children Act 1989 by the Children and Young Persons Act [2008 \(c.23\)](#).

**“Circumstances in which a person in education will be treated as not being a member of a household**

**15A.**—(1) A person is subject to this regulation if they fulfil the conditions in sub-paragraphs to (5).

(2) The first condition is that he is under the age of 21.

(3) The second condition is that he is undertaking a course of full-time, non-advanced education.

(4) The third condition is that he was accepted to attend, enrolled on, or began the course before attaining the age of 19.

(5) The fourth condition is that—

(a) he has no parent;

(b) of necessity he has to live away from his parents because—

(i) he is estranged from them,

(ii) he is in physical or moral danger, or

(iii) there is a serious risk to his physical or mental health; or

(c) he is living away from his parents where they are unable financially to support him and are—

(i) chronically sick or mentally or physically disabled,

(ii) detained in custody pending trial or sentence upon conviction or under a sentence imposed by a court, or

(iii) prohibited from entering or re-entering Great Britain.

(6) In this paragraph—

“chronically sick or mentally or physically disabled” has the meaning given in regulation 13(3)(b);

“course of full-time, non-advanced education” means education of a kind referred to in regulation 3(2)(a) or (b) of the Child Benefit (General) Regulations 2006**(33)**;

“parent” includes a person acting in place of a parent which—

(a) for the purposes of sub-paragraph (5)(a) and (b) has the meaning given in regulation 13(3)(a)(i), and

(b) for the purposes of sub-paragraph (5)(c), has the meaning given in regulation 13(3)(a)(ii).”.

(13) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings), in paragraph 58**(34)** omit “under the Community Care (Direct Payments) Act 1996 or”.

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

(a) after paragraph 39 insert—

**“39A.** Any payment made under Part 8A of the Contributions and Benefits Act (entitlement to health in pregnancy grant)**(35)**.”;

(b) in paragraph 67**(36)** omit “the Community Care (Direct Payments) Act 1996,”.

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**(33)** [S.I. 2006/223](#), the relevant amending instrument is [S.I. 2007/2150](#).

**(34)** Inserted by [S.I. 1997/65](#) and amended in relation to England by [S.I. 2003/762](#) and in relation to Wales by [S.I. 2004/1748](#).

**(35)** See section 140A of the Social Security Contributions and Benefits Act 1992, inserted by section 131 of the Health and Social Care Act 2008 (c.14).

**(36)** Inserted by [S.I. 2003/2279](#).

**Amendment of the Social Security Claims and Payments Regulations 1987**

3. In paragraph 7 of Schedule 9A to the Social Security Claims and Payments Regulations 1987(37) (deductions of mortgage interest from benefit and payment to qualifying lenders), for “£0.47” substitute “£0.55”.

**Amendment of the Jobseeker’s Allowance Regulations 1996**

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

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

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

““basic rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act).”;

(b) omit the definition of “starting rate”(38).

(3) In—

(a) regulation 1(3) (citation, commencement and interpretation), in paragraphs (a) and (c) of the definition of “training allowance”(39),

(b) regulation 11(3)(40) (part-time students),

(c) regulation 19(1)(r)(ii)(aa)(41) (circumstances in which a person is to be treated as actively seeking employment),

(d) regulation 57(1) (interpretation of Part IV), in the definition of “training”(42),

(e) regulation 75(1)(b)(i)(43) (interpretation),

(f) regulation 170(2)(44) (persons in receipt of a training allowance),

(g) Schedule A1(45) (categories of members of a joint-claim couple who are not required to satisfy the conditions in section 1(2B)(b)), in paragraph 16 (young persons in training)(46),

(h) Schedule 1 (applicable amounts), in paragraphs 8(1)(b)(47) and 20D(1)(b)(48), and

(i) Schedule 2 (housing costs), in paragraph 3(13)(d),

before “Scottish Enterprise” insert “Skills Development Scotland,”.

(4) In regulation 51(2) (remunerative work) omit sub-paragraph (c).

(5) Omit regulation 85(2) (special cases).

(6) For regulation 95(2A)(49) (calculation of earnings of self-employed earners) substitute—

“(2A) This paragraph applies to—

(a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or

(b) any payment in respect of any —

(37) S.I. 1987/1968. Paragraph 7 amended by S.I. 2007/541.

(38) The definition of “starting rate” was inserted by S.I. 2007/2618.

(39) For the definition of “training allowance” the relevant amending instruments are S.I. 1996/1517, 1999/3156, 2001/652, 2008/698 and 3157.

(40) Relevant amending instruments are S.I. 2001/1324 and 2005/3238.

(41) Sub-paragraph (r) was inserted by S.I. 1998/1274.

(42) Relevant amending instruments are S.I. 2001/652 and 2005/3238.

(43) Relevant amending instruments are S.I. 1998/1274, 2001/652 and 2005/3238.

(44) Relevant amending instruments are S.I. 2001/652 and 2005/3238.

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

(46) Relevant amending instruments are S.I. 2001/652, 2005/3238 and 2006/718.

(47) Relevant amending instruments are S.I. 1996/2538 and 2008/698.

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

(49) Inserted by S.I. 2008/698.

- (i) book registered under the Public Lending Right Scheme 1982; or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,
- where the claimant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.”.
- (7) In regulation 102(1)(**50**) (deduction of tax and contributions for self-employed earners) and regulation 105(15)(a)(**51**) (notional income)—
- (a) omit “the starting rate or, as the case may be, the starting rate and”;
  - (b) for “starting” substitute “basic”.
- (8) In regulation 102D(**52**) (deduction in respect of tax for participants in the self-employed route)—
- (a) in paragraph (1)(c) omit “the starting rate of tax or, as the case may be, the starting rate and”;
  - (b) in paragraph (2) for “starting” substitute “basic”.
- (9) In regulation 130(**53**) (interpretation) for the definition of “contribution” substitute—
- ““contribution” means—
- (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or
  - (b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following persons to contribute towards the holder’s expenses—
    - (i) the holder of the allowance or bursary;
    - (ii) the holder’s parents;
    - (iii) the holder’s parent’s spouse, civil partner or a person ordinarily living with the holder’s parent as if he or she were the spouse or civil partner of that parent; or
    - (iv) the holder’s spouse or civil partner;”.
- (10) In regulation 131(2)(**54**) (calculation of grant income), after sub-paragraph (i) add—
- “(j) of higher education bursary for care leavers made under Part III of the Children Act 1989.”.
- (11) In regulation 163(4)(c)(**55**) (calculation of earnings) for “starting” substitute “basic”.
- (12) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings), in paragraph 56(**56**) omit “under the Community Care (Direct Payments) Act 1996 or”.
- (13) In Schedule 8 (capital to be disregarded)—
- (a) after paragraph 37 insert—

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(50) Relevant amending instruments are [S.I. 2007/1749](#) and [2618](#).

(51) Relevant amending instruments are [S.I. 2007/1749](#) and [2618](#).

(52) Regulation 102D was inserted by [S.I. 1998/1174](#). Relevant amending instruments are [S.I. 2000/2910](#) and [2007/2618](#).

(53) Relevant amending instruments are [S.I. 1998/563](#), [1999/1935](#), [2001/2319](#), [2005/2887](#) and [2008/2767](#).

(54) Relevant amending instruments are [S.I. 1996/1516](#), [1999/1935](#), [2003/455](#) and [2004/1708](#).

(55) The relevant amending instrument is [S.I. 2007/2618](#).

(56) Inserted by [S.I. 1997/65](#). Amended in relation to England by [S.I. 2003/762](#) and in relation to Wales by [S.I. 2004/1748](#).



“**37A.** Any payment made under Part 8A of the Benefits Act (entitlement to health in pregnancy grant).”;

(b) in paragraph 60(**57**) omit “the Community Care (Direct Payments) Act 1996,”.

### **Amendment of the State Pension Credit Regulations 2002**

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

(2) In regulation 15(5) (income for the purposes of the Act)—

(a) for sub-paragraph (f)(**58**) substitute—

“(f) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;”;

(b) for sub-paragraph (g) substitute—

“(g) any payment in respect of any—

(i) book registered under the Public Lending Right Scheme 1982; or

(ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;”.

(3) In regulation 17 (calculation of weekly income)—

(a) for paragraph (5)(a)(**59**) substitute—

“(a) royalties or other sums received as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;”;

(b) for paragraph (5)(b) substitute—

“(b) any payment in respect of any—

(i) book registered under the Public Lending Right Scheme 1982; or

(ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;”;

(c) for paragraph (9)(b)(**60**) substitute—

“(b) any amount to which paragraph (5) applies where the claimant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in paragraph (5)(b).”.

(4) In—

(a) Schedule II (housing costs), in paragraph 4(13)(b), and

(b) Schedule V (income from capital), in paragraph 15(8)(a) and (c) in the definition of “training allowance”,

before “Scottish Enterprise” insert “Skills Development Scotland,”.

(5) In Schedule V (income from capital) after paragraph 23A insert—

“**23B.** Any payment made under Part 8A of the 1992 Act (entitlement to health in pregnancy grant).”.

### **Amendment of the Housing Benefit Regulations 2006**

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

(57) Inserted by [S.I. 2003/2279](#).

(58) The relevant amending instruments is [S.I. 2003/2274](#).

(59) The relevant amending instrument is [S.I. 2002/3019](#).

(60) Paragraph 9 substituted as originally enacted by [S.I. 2002/3019](#).



- (2) In regulation 2(1) (interpretation)—
- (a) in the appropriate place insert the following definition—  
““basic rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act);”;
  - (b) in the definition of “main phase employment and support allowance”(61), after “Act” insert “except in Part 1 of Schedule 3”;
  - (c) omit the definition of “starting rate”(62).
- (3) In—
- (a) regulation 2(1) (interpretation), in paragraphs (a) and (c) of the definition of “training allowance”(63),
  - (b) regulation 7(18) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), in the definition of “training course”, and
  - (c) Schedule 3 (applicable amounts), in paragraph 7(1)(b),
- before “Scottish Enterprise” insert “Skills Development Scotland,”.
- (4) In regulation 36(6)(a)(64) (calculation of net earnings of employed earners), regulation 39(1)(65) (deduction of tax and contributions of self-employed earners) and regulation 42(12)(a)(66) (notional income)—
- (a) omit “the starting rate or, as the case may be, the starting rate and”;
  - (b) for “starting” substitute “basic”.
- (5) For regulation 37(3)(67) (earnings of self-employed earners) substitute—
- “(3) This paragraph applies to—
- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
  - (b) any payment in respect of any—
    - (i) book registered under the Public Lending Right Scheme 1982; or
    - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,where the claimant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.”.
- (6) In regulation 53(1) (interpretation)—
- (a) for the definition of “contribution”(68) substitute—  
““contribution” means—
  - (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or
  - (b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers

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(61) Definition of “main phase employment and support allowance” was inserted by [S.I. 2008/1082](#).

(62) Definition of “starting rate” was inserted by [S.I. 2007/2618](#).

(63) The relevant amending instrument is [S.I. 2008/3157](#).

(64) The relevant amending instrument is [S.I. 2007/2618](#).

(65) The relevant amending instrument is [S.I. 2007/2618](#).

(66) The relevant amending instrument is [S.I. 2007/2618](#).

(67) Inserted by [S.I. 2008/698](#).

(68) The relevant amending instrument is [S.I. 2008/2767](#).

- or education authority consider that it is reasonable for the following persons to contribute towards the holder's expenses—
- (i) the holder of the allowance or bursary;
  - (ii) the holder's parents;
  - (iii) the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if he or she were the spouse or civil partner of that parent; or
  - (iv) the holder's spouse or civil partner;";
- (b) in the definition of "period of study"—
- (i) for paragraph (b)(i) substitute—
    - "(i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or";
  - (ii) in paragraph (b)(ii) for "recognised" substitute "normal".
- (7) In regulation 56 (full-time students to be treated as not liable to make payments in respect of a dwelling)—
- (a) in paragraph (2)(h)(i)(69) for "19" substitute "21";
  - (b) after paragraph (2) insert—
    - "(2A) For the purposes of paragraph (2)(h)(i) the student must have begun the course before attaining the age of 19."
- (8) In regulation 59(2) (calculation of grant income), after sub-paragraph (h) add—
- "(i) of higher education bursary for care leavers made under Part III of the Children Act 1989."
- (9) In regulation 63 (other amounts to be disregarded) omit paragraph (2)(70).
- (10) In Schedule 3 (applicable amounts)—
- (a) after paragraph 1 insert—
    - "1A. For the purposes of paragraph 1 a claimant is entitled to main phase employment and support allowance if he personally satisfies paragraph 21(71) of this Schedule.";
  - (b) in paragraph 3(4)—
    - (i) in paragraph (c) for "continued to be entitled to one or other of those benefits" substitute "continuously, since that date, been entitled to income support, an income-based jobseeker's allowance or an income-related employment and support allowance or a combination of those benefits";
    - (ii) in paragraph (d) for "either of those benefits" substitute "income support, an income-based jobseeker's allowance or an income-related employment and support allowance";
    - (iii) in paragraph (e)(72) after "12" insert "or a component under paragraph 23 or 24";
  - (c) in paragraph 14(2)(b) for "entitled to or in receipt of" substitute "entitled to and in receipt of".

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(69) Substituted by [S.I. 2006/718](#).

(70) The relevant amending instrument is [S.I. 2008/1042](#).

(71) Inserted by [S.I. 2008/1082](#) and the relevant amending instrument is [S.I.2008/2428](#).

(72) The relevant amending instrument is [S.I. 2008/1042](#).

(11) In Schedule 4 (sums to be disregarded in the calculation of earnings), after paragraph 2 insert—

“**2A.** In the case of a claimant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which regulation 37(3) and (4)(**73**) (earnings of self-employed earners) apply.”.

(12) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings), in paragraph 57 omit “under the Community Care (Direct Payments) Act 1996 or”.

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

(a) after paragraph 41 insert—

“**41A.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).”;

(b) in paragraph 58 omit “the Community Care (Direct Payments) Act 1996, or”.

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

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

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

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

““basic rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act).”;

(b) omit the definition of “starting rate”(**74**).

(3) In—

(a) regulation 2(1) (interpretation), in paragraphs (a) and (c) of the definition of “training allowance”(**75**),

(b) regulation 7(18) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), in the definition of “training course”, and

(c) Schedule 3 (applicable amounts), in paragraph 5(1)(b),

before “Scottish Enterprise” insert “Skills Development Scotland.”.

(4) In regulation 29(1) (meaning of “income”)—

(a) for sub-paragraph (q) substitute—

“(q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark.”;

(b) for sub-paragraph (r) substitute—

“(r) any payment in respect of any—

(i) book registered under the Public Lending Right Scheme 1982; or

(ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982.”.

(5) In regulation 33 (calculation of weekly income)—

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(73) Inserted by [S.I. 2008/698](#).

(74) Definition of “starting rate” was inserted by [S.I. 2007/2618](#).

(75) The relevant amending instrument is [S.I. 2008/3157](#).

- (a) for paragraph (5)(a) substitute—
  - “(a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark.”;
- (b) for paragraph (5)(b) substitute—
  - “(b) any payment in respect of any —
    - (i) book registered under the Public Lending Right Scheme 1982; or
    - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982; or”;
- (c) for paragraph (8)(b) substitute—
  - “(b) any amount to which paragraph (5) applies where the claimant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in paragraph (5)(b).”;
- (d) after paragraph (8) insert—
  - “(8A) For the purpose of paragraph (8)(b), and for that purpose only, the amounts specified in paragraph (5) shall be treated as though they were earnings.”.
- (6) In regulation 36(5)(a)(**76**) (calculation of net earnings of employed earners) and regulation 40(1)(**77**) (deduction of tax and contributions of self-employed earners)—
  - (a) omit “the starting rate or, as the case may be, the starting rate and”;
  - (b) for “starting” substitute “basic”.
- (7) In Schedule 4 (sums disregarded from claimant’s earnings)—
  - (a) at the end of paragraph 5(1)(c) insert “or” and the following sub-paragraph—
    - “(d) has, or is treated as having, limited capability for work within the meaning of section 1(4) of the Welfare Reform Act or limited capability for work-related activity within the meaning of section 2(5) of that Act and either—
      - (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
      - (ii) regulation 7 of the Employment and Support Allowance Regulations (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arises does not apply) applies.”;
  - (b) in paragraph 8 after “copyright,” insert “design,”.
- (8) In Schedule 6 (capital to be disregarded), after paragraph 26B(**78**) insert—
  - “**26C.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).”.

### **Amendment of the Council Tax Benefit Regulations 2006**

- 8.—**(1) The Council Tax Benefit Regulations 2006 are amended as follows.
- (2) In regulation 2(1) (interpretation)—
  - (a) in the appropriate place insert the following definition—
    - ““basic rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act).”;

(76) The relevant amending instrument is [S.I. 2007/2618](#).

(77) The relevant amending instrument is [S.I. 2007/2618](#).

(78) Inserted by [S.I. 2008/3157](#).

- (b) in the definition of “main phase employment and support allowance”(79) after “Act” insert “except in Part 1 of Schedule 1”;
  - (c) omit the definition of “starting rate”(80).
- (3) In—
- (a) regulation 2(1) (interpretation), in paragraphs (a) and (c) of the definition of “training allowance”, and
  - (b) regulation 8(7) (prescribed persons for the purposes of section 131(3)(b) of the Act),
- before “Scottish Enterprise” insert “Skills Development Scotland,”.
- (4) In regulation 26(6)(a)(81) (calculation of net earnings of employed earners), regulation 29(1)(82) (deduction of tax and contributions of self-employed earners) and regulation 32(12)(a)(83) (notional income)—
- (a) omit “the starting rate or, as the case may be, the starting rate and”;
  - (b) for “starting” substitute “basic”.
- (5) For regulation 27(3)(84) (earnings of self-employed earners) substitute—
- “(3) This paragraph applies to—
- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
  - (b) any payment in respect of any—
    - (i) book registered under the Public Lending Right Scheme 1982; or
    - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,where the claimant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.”.
- (6) In regulation 43(1) (interpretation)—
- (a) for the definition of “contribution”(85) substitute—

““contribution” means—

    - (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or
    - (b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following persons to contribute towards the holder’s expenses—
      - (i) the holder of the allowance or bursary;
      - (ii) the holder’s parents;

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(79) Definition of “main phase employment and support allowance” was inserted by [S.I. 2008/1082](#), as the relevant amending instrument is [S.I. 2008/2428](#).

(80) Definition of “starting rate” was inserted by [S.I. 2007/2618](#).

(81) The relevant amending instrument is [S.I. 2007/2618](#).

(82) The relevant amending instrument is [S.I. 2007/2618](#).

(83) The relevant amending instrument is [S.I. 2007/2618](#).

(84) Inserted by [S.I. 2008/698](#).

(85) The relevant amending instrument is [S.I. 2008/2767](#).

- (iii) the holder’s parent’s spouse, civil partner or a person ordinarily living with the holder’s parent as if he or she were the spouse or civil partner of that parent; or
    - (iv) the holder’s spouse or civil partner;”;
  - (b) In the definition for “period of study”—
    - (i) for paragraph (b)(i) substitute—
      - “(i) the day before the start of the next year of the course in a case where the student’s grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or”;
      - (ii) in paragraph (b)(ii) for “recognised” substitute “normal”.
- (7) In regulation 45(3) (students who are excluded from entitlement to council tax benefit)—
  - (a) in sub-paragraph (h)(i)(**86**) for “19” substitute “21”;
  - (b) after sub-paragraph (i) insert—
    - “(3A) For the purposes of paragraph (3)(h)(i) the student must have begun the course before attaining the age of 19.”.
- (8) In regulation 46(2) (calculation of grant income), after sub-paragraph (h) add—
  - “(i) of higher education bursary for care leavers made under Part III of the Children Act 1989.”.
- (9) In regulation 50 (other amounts to be disregarded) omit paragraph (2).
- (10) In Schedule 1 (applicable amounts)—
  - (a) after paragraph 1 insert—
    - “**1A.** In paragraph 1 a claimant is entitled to main phase employment and support allowance if he satisfies paragraph 21(**87**) of this Schedule.”;
  - (b) in paragraph 3(4)—
    - (i) in paragraph (c) for “continued to be entitled to one or other of those benefits” substitute “continuously, since that date, been entitled to income support, an income-based jobseeker’s allowance or income-related employment and support allowance or a combination of those benefits”;
    - (ii) in paragraph (d) for “either of those benefits” substitute “income support, an income-based jobseeker’s allowance or an income-related employment and support allowance”;
    - (iii) in paragraph (e)(**88**) after “12” insert “or a component under paragraph 23 or 24”;
  - (c) in paragraph 7(1)(b)—
    - (i) after “approved” insert “by the Secretary of State”;
    - (ii) after “the 1973 Act or” insert—
      - “by Skills Development Scotland, Scottish Enterprise or Highlands and Islands Enterprise under”;
    - (iii) for “Town” substitute “Towns”;
  - (d) in paragraph 14(2)(b) for “entitled to or in receipt of” substitute “entitled to and in receipt of”.

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(86) Substituted by [S.I. 2006/718](#).

(87) Inserted by [S.I. 2008/1082](#). The relevant amending instrument is [S.I. 2008/2428](#).

(88) The relevant amending instrument is [S.I. 2008/1042](#).

(11) In Schedule 3 (sums to be disregarded in the calculation of earnings), after paragraph 2 insert—

“**2A.** In the case of a claimant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which regulation 27(3) and (4)(**89**) (earnings of self-employed earners) apply.”.

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

(a) in paragraph 43(**90**), after “section 13” insert “or”;

(b) in paragraph 57 omit “under the Community Care (Direct Payments) Act 1996 or”.

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

(a) after paragraph 41 insert—

“**41A.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).”;

(b) in paragraph 60 omit “the Community Care (Direct Payments) Act 1996, or”.

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

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

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

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

““basic rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act).”;

(b) omit the definition of “starting rate”(**91**).

(3) In—

(a) regulation 2(1) (interpretation), in paragraphs (a) and (c) in the definition of “training allowance”,

(b) regulation 8(7) (prescribed persons for the purposes of section 131(3)(b) of the Act), in the definition of “training course”, and

(c) Schedule 1 (applicable amounts), in paragraph 5(1)(b),

before “Scottish Enterprise” insert “Skills Development Scotland,”.

(4) In regulation 19(1) (meaning of “income”)—

(a) for sub-paragraph (q) substitute—

“(q) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;”;

(b) for sub-paragraph (r) substitute—

“(r) any payment in respect of any—

(i) book registered under the Public Lending Right Scheme 1982; or

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(**89**) Inserted by [S.I. 2008/698](#).

(**90**) The relevant amending instrument is [S.I. 2008/698](#).

(**91**) Definition of “starting rate” was inserted by [S.I. 2007/2618](#).



- (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;”.
- (5) In regulation 23 (calculation of weekly income)—
- (a) for paragraph (5)(a) substitute—
- “(a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark;”;
- (b) for paragraph (5)(b) substitute—
- “(b) any payment in respect of any—
- (i) book registered under the Public Lending Right Scheme 1982; or
- (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982;”;
- (c) for paragraph (8)(b) substitute—
- “(b) any amount to which paragraph (5) applies where the claimant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work referred to in paragraph (5)(b).”;
- (d) after paragraph (8) insert—
- “(8A) For the purposes of paragraph (8)(b), and for that purpose only, the amounts specified in paragraph (5) shall be treated as though they were earnings.”.
- (6) In regulation 26(5)(a)(92) (calculation of net earnings of employed earners) and regulation 30(1)(93) (deduction of tax and contributions of self-employed earners)—
- (a) omit “the starting rate or, as the case may be, the starting rate and”;
- (b) for “starting” substitute “basic”.
- (7) In Schedule 1 (applicable amounts), in paragraph 6(2)(b)(iii) for “entitled to or in receipt of” substitute “entitled to and in receipt of”.
- (8) In Schedule 2 (sums disregarded from claimant’s earnings), at the end of paragraph 5(1)(c) insert “or” and the following sub-paragraph—
- “(d) has, or is treated as having, limited capacity for work within the meaning of section 1(4) of the Welfare Reform Act or limited capability for work-related activity within the meaning of section 2(5) of that Act and either—
- (i) the assessment phase as defined in section 24(2) of the Welfare Reform Act has ended; or
- (ii) regulation 7 of the Employment and Support Allowance Regulations (circumstances where the condition that the assessment phase has ended before entitlement to the support component or the work-related activity component arising does not apply) applies.”.
- (9) In Schedule 4 (capital disregards), after paragraph 26A(94) add—
- “**26B.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).”.

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

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

(92) The relevant amending instrument is [S.I. 2007/2618](#).

(93) The relevant amending instrument is [S.I. 2007/2618](#).

(94) Inserted by [S.I. 2008/1042](#).

- (2) In—
- (a) regulation 2(1) (interpretation), in paragraphs (a) and (c) of the definition of “training allowance”,
  - (b) Schedule 4 (amounts), in paragraph 4(1)(b), and
  - (c) Schedule 6 (housing costs), in paragraph 5(13),
- before “Scottish Enterprise” insert “Skills Development Scotland,”.
- (3) In regulation 91(2)(c) (calculation of earnings derived from employed earner’s employment and income other than earnings) for “income-related” substitute “employment and support”.
- (4) In regulation 92 (calculation of earnings of self-employed earners) for paragraph (2) substitute—
- (a) “(2) Where the claimant’s earnings consist of any items to which this paragraph applies those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of employment and support allowance which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 7 (earnings to be disregarded) as is appropriate in the claimant’s case;
  - (b) This paragraph applies to—
    - (i) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
    - (ii) any payment in respect of any book registered under the Public Lending Right Scheme 1982 or work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the claimant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work concerned.”.
- (5) In regulation 93 (date on which income is treated as paid)—
- (a) in paragraph (3)—
    - (i) before “Working tax credit” insert “Subject to paragraph (4),”;
    - (ii) omit “or child tax credit”;
    - (iii) at the end of sub-paragraph (a) insert “or”;
    - (iv) at the end of sub-paragraph (b) omit “or.”;
    - (v) omit sub-paragraph (c);
  - (b) after paragraph (3) insert—

“(4) Where working tax credit is paid under regulation 7D (ceasing to undertake work or working less than 16 hours a week) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(95), it shall be treated as paid on the first day of the benefit week in which that award of tax credit begins; but this paragraph shall only apply until the last day of the last benefit week that coincides with or precedes the last day for which tax credit is awarded under that regulation.”.
- (6) In regulation 94(1) (calculation of weekly amount of income) for sub-paragraph (b)(iii) substitute—
- “(iii) in a case where that period is a year and the payment is an award of working tax credit, by dividing the payment by the number of days in the year and multiplying the result by 7;

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(95) S.I. 2002/2005. Regulation 7D was inserted by S.I. 2007/968.

- (iiia) in a case where that period is a year and the payment is income other than an award of working tax credit, by dividing the amount of the payment by 52;”.
- (7) In regulation 131(1) (interpretation) for the definition of “contribution” substitute—
- ““contribution” means—
- (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or
  - (b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following persons to contribute towards the holder’s expenses—
    - (i) the holder of the allowance or bursary;
    - (ii) the holder’s parents;
    - (iii) the holder’s parent’s spouse, civil partner or a person ordinarily living with the holder’s parent as if he or she were the spouse or civil partner of that parent; or
    - (iv) the holder’s spouse or civil partner;”.
- (8) In regulation 132(2) (calculation of grant income), after sub-paragraph (i) add—
- “(j) of higher education bursary for care leavers made under Part III of the Children Act 1989.”.
- (9) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings), in paragraph 53 omit “under the Community Care (Direct Payments) Act 1996 or”.
- (10) Schedule 9 (capital to be disregarded)—
- (a) after paragraph 38 insert—

“**38A.** Any payment made under Part 8A of the Social Security Contributions and Benefits Act 1992 (entitlement to health in pregnancy grant).”;
  - (b) in paragraph 56 omit “the Community Care (Direct Payments) Act 1996,”.

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

9th March 2009

*Tony McNulty.*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

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## EXPLANATORY NOTE

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

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

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

- remove reference to residential care and nursing home charges which are no longer made by the Department for Work and Pensions, and
- clarify that a person will fall within the category of prescribed people who can claim income support when they are temporarily looking after a child because of the “temporary” illness of the usual carer.

Regulations 2, 4 and 6 to 9 amend the Income Support Regulations, the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207) (“the Jobseeker’s Allowance Regulations”), the Housing Benefit Regulations 2006 (S.I. 2006/213) (“the Housing Benefit Regulations”), the Council Tax Benefit Regulations (S.I. 2006/214) (“the Council Tax Benefit Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/215) (“the Housing Benefit (SPC) Regulations”) and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/216) (“the Council Tax Benefit (SPC) Regulations”) so as to remove obsolete references to “starting rate” taxation and, where appropriate, to replace it with a reference to “basic rate”.

Regulations 2, 4, 6, 8 and 10 amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, the Housing Benefit Regulations, the Council Tax Regulations, and the Employment and Support Allowance Regulations (S.I. 2008/794) (“the Employment and Support Allowance Regulations”) to:

- add to the list of persons who may make financial contributions to a student which may be assessed when considering the student’s income to include the student’s parent’s partner,
- provide that payment of the higher education bursary for care leavers would be disregarded when calculating student grant income, and
- remove obsolete references to the Community Care (Direct Payments) Act 1996.

Regulation 2, 6 and 8 amend the Income Support Regulations, the Housing Benefit Regulations and the Council Tax Benefit Regulations to change the eligibility criteria for students in full-time, non-advanced education for these benefits.

Regulations 2, 4 to 10 amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, the State Pension Credit Regulations, the Housing Benefit Regulations, the Council Tax Benefit Regulations, the Housing Benefit (SPC) Regulations, the Council Tax Benefit (SPC) Regulations and the Employment and Support Allowance Regulations to:

- add Skills Development Scotland to the list of organisations that can provide training for which a “training allowance” is payable,
- add reference to “design, patent, and trade mark rights” to sections relating to royalties payments,
- add reference to “foreign public lending scheme payments” in sections relating to United Kingdom public lending right scheme payments, and

*Status: This is the original version (as it was originally made).*

- provide that the health in pregnancy grant is disregarded when assessing the capital of a claimant (or claimant’s partner).

Regulation 3 amends the Social Security (Claims and Payments) Regulations 1987 by increasing from £0.47 to £0.55 the fee which qualifying lenders pay for the purpose of defraying administrative expenses incurred by the Secretary of State in making payments in respect of mortgage interest to qualifying lenders.

Regulation 4 amends the Jobseeker’s Allowance Regulations to remove a provision that treated someone who worked on an annual contract at an educational establishment, but not during the summer holiday period, as being in paid employment for the whole year.

Regulations 6 to 9 amend the Housing Benefit Regulations, the Housing Benefit (SPC) Regulations, the Council Tax Benefit Regulations and the Council Tax Benefit (SPC) Regulations to amend entitlement to those benefits to include certain people who qualify for income support, an income-based jobseeker’s allowance, an income-related employment and support allowance or a combination of those benefits.

Regulations 6 and 8 amend the Housing Benefit Regulations and the Council Tax Benefit Regulations to:

- amend the definition of “main phase Employment and Support Allowance”, so that the usual definition does not apply when calculating weekly personal allowances for housing benefit and council tax benefit, and to make corresponding provision to ensure that weekly personal allowances under employment and support allowance apply to all employment and support allowance claimants, and not just those who are in receipt of payment of employment and support allowance,
- change the definition for “period of study” to align it with the provisions of other income related benefit legislation,
- amend the provisions for awarding an addition appropriate to lone parents, so that they apply to employment and support allowance customers in the same way as they apply to customers of any of the other working age income-related benefits, and
- remove obsolete provisions relating to free school meals and school meals grants.

Regulations 6, 8 and 9 amend the Housing Benefit Regulations, the Council Tax Benefit Regulations and the Council Tax Benefit (SPC) Regulations to align the definition of who constitutes a “severely disabled claimant” when calculating applicable amounts with that used across other income related benefit legislation.

Regulations 7 and 9 amend the Housing Benefit (SPC) Regulations and Council Tax Benefit (SPC) Regulations to:

- apply the £20 weekly earnings disregard to all employment and support allowance claimants, and not just those who are in receipt of payment of employment and support allowance, and
- ensure that the treatment of royalties’ payments is restricted to specified circumstances, so that the treatment is consistent with other income related benefits legislation.

Regulation 8 amends the Council Tax Benefit Regulations to:

- clarify that the Secretary of State, Scottish Enterprise or Highland and Islands Enterprise can approve or provide training that attracts a training allowance, and
- correct some minor drafting errors.

Regulation 10 amends the Employment and Support Allowance Regulations 2008 ([S.I. 2008/794](#)) to:

- provide that payment of working tax credits during the last 4 week period of eligibility for those credits is taken into account when assessing eligibility to employment and support allowance, and
- clarify how working tax credit paid during a year is to be calculated.

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