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STATUTORY INSTRUMENTS

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**2017 No. 870**

**SOCIAL SECURITY**

**The Social Security (Infected Blood  
and Thalidomide) Regulations 2017**

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| <i>Made</i>                   | - - - - | <i>at 9.15 a.m. on 5th<br/>September 2017</i> |
| <i>Laid before Parliament</i> |         | <i>at 2.00 p.m. on 5th<br/>September 2017</i> |
| <i>Coming into force</i>      | - -     | <i>23rd October 2017</i>                      |

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 123(1)(a) and (d), 136(3) and (5), 136A(3), 137(1) and 175(1), (3) and (5) of the Social Security Contributions and Benefits Act 1992 (1), section 189(4) and (6) of the Social Security Administration Act 1992(2), sections 12(1) and (4), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(3), sections 29 and 30(4) of, and paragraph 8 of Schedule 1 to, the Social Security (Recovery of Benefits) Act 1997(4), sections 2(3)(b), 15(3) and (6)(b) and 17(1) of the State Pension Credit Act 2002(5) and sections 17(1) and (3), 24(1) and 25(3) and (5) of the Welfare Reform Act 2007(6) makes the following Regulations.

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

In respect of the provisions in these Regulations relating to housing benefit, in accordance with section 176(1) of the Social Security Administration Act 1992(7), the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

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- (1) 1992 c.4. Section 136A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act 2002 (c.16). Subsections (1), (3) and (5) of section 175 is applied to provisions of the State Pension Credit Act 2002 (c.16) by section 19(1) of that Act. See section 137(1) for the meaning of “prescribed”.
  - (2) 1992 c.5. Section 189 is applied to the provisions of the Social Security (Recovery of Benefits Act) 1997 (c.27) by section 30 of that Act.
  - (3) 1995 c.18. See section 35(1) for the meaning of “prescribed” and “regulations”.
  - (4) 1997 c.27. Paragraph 8 of Schedule 1 applies to lump sum payments by virtue of section 1A(4)(b), which was inserted by section 54 of the Child Maintenance and Other Payments Act 2008 (c.6). See section 29 for the meaning of “prescribed” and “regulations”.
  - (5) 2002 c.16. See section 17(1) for the meaning of “prescribed” and “regulations”.
  - (6) 2007 c.5. See section 24(1) for the meaning of “prescribed” and “regulations”.
  - (7) Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c.14), paragraph 3(4) of Schedule 13 to the Housing Act 1996 (c.52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000 (c.19).

### Citation and commencement

1. These Regulations may be cited as the Social Security (Infected Blood and Thalidomide) Regulations 2017 and come into force on 23rd October 2017.

### Amendments to the Income Support (General) Regulations 1987

2.—(1) The Income Support (General) Regulations 1987<sup>(8)</sup> are amended as follows.

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

(a) in the appropriate place insert—

““approved blood scheme” means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;”;

(b) in the definition of “qualifying person”, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”.

(3) In each of the following provisions, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”—

(a) regulation 42(4ZA)(a) (notional income);

(b) regulation 48(10)(c) (income treated as capital);

(c) regulation 51(3A)(a) (notional capital);

(d) paragraph 18(8)(b) of Schedule 3 (housing costs);

(e) paragraphs 21(2) and 39(1) and (7) of Schedule 9 (sums to be disregarded in the calculation of income other than earnings);

(f) paragraphs 22(1) and (7) and 29 of Schedule 10 (capital to be disregarded).

(4) In Schedule 3, after paragraph 18(8)(c) insert—

“(d) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

(5) In Schedule 10, after paragraph 72 add—

“73. Any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

### Amendments to the Jobseeker’s Allowance Regulations 1996

3.—(1) The Jobseeker’s Allowance Regulations 1996<sup>(9)</sup> are amended as follows.

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

(a) in the appropriate place insert—

““approved blood scheme” means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the

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(8) S.I. 1987/1967. Relevant amending instruments are S.I. 1988/663, 999, 1445 and 2022, 1990/127, 1991/1175, 1992/1101, 1993/963 and 1249, 1995/1613, 1998/2117, 2002/2689, 2004/1141 and 2308, 2005/5743391, 2007/2538, 2008/2767, 2010/641, 2011/2425, and 2017/329, 422 and 689.

(9) S.I. 1996/207. Relevant amending instruments are S.I. 1998/2117, 2002/2689, 2004/1141 and 2308, 2005/574 and 3391, 2008/2767, 2010/641, 2011/2425, 2017/329, 422 and 689.

purpose of providing compensation in respect of a person having been infected from contaminated blood products;”;

(b) in the definition of “qualifying person”, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”.

(3) In each of the following provisions, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”—

(a) regulation 105(10A)(a) (notional income);

(b) regulation 110(10)(c) (income treated as capital);

(c) regulation 113(3A)(a) (notional capital);

(d) paragraph 17(8)(b) of Schedule 2 (housing costs);

(e) paragraphs 22(2) and 41(1) and (7) of Schedule 7 (sums to be disregarded in the calculation of income other than earnings);

(f) paragraphs 27(1) and 31 of Schedule 8 (capital to be disregarded).

(4) In Schedule 2, after paragraph 17(8)(c) insert—

“(d) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

(5) In Schedule 8, after paragraph 65 add—

“66. Any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

#### **Amendments to the Social Security (Recovery of Benefits) Regulations 1997**

4. In regulation 2(2) of the Social Security (Recovery of Benefits) Regulations 1997(10) (exempted trusts and payments), after sub-paragraph (n) add—

“(o) any payment made from a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;

(p) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

#### **Amendments to the State Pension Credit Regulations 2002**

5.—(1) The State Pension Credit Regulations 2002(11) are amended as follows.

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

(a) in the appropriate place insert—

““approved blood scheme” means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the

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(10) S.I. 1997/2205. Sub-paragraph (n) was inserted by S.I. 2017/329.

(11) S.I. 2002/1792. Relevant amending instruments are S.I. 2004/1141, 2005/574 and 3391, 2008/2767, 2010/641, 2011/2425, 2017/329, 422 and 689.

- purpose of providing compensation in respect of a person having been infected from contaminated blood products;”;
- (b) in the definition of “qualifying person”, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”.
- (3) In each of the following provisions, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”—
- (a) paragraph 14(8)(b) of Schedule 2 (housing costs);
- (b) paragraph 15(1) and (7) of Schedule 5 (income from capital).
- (4) In Schedule 2, after paragraph 14(8)(c) insert—
- “(d) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.
- (5) In Part 1 of Schedule 5, after paragraph 23E add—
- “**23F.** Any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

### **Amendments to the Housing Benefit Regulations 2006**

- 6.—(1) The Housing Benefit Regulations 2006(12) are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) in the appropriate place insert—
- ““approved blood scheme” means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;”;
- (b) in the definition of “qualifying person”, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”.
- (3) In each of the following provisions, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”—
- (a) regulation 42(7)(a) (notional income);
- (b) regulation 46(6) (income treated as capital);
- (c) regulation 49(4)(a) (notional capital);
- (d) regulation 74(9)(b) (non-dependant deductions);
- (e) paragraph 35(1) and (7) of Schedule 5 (sums to be disregarded in the calculation of income other than earnings);
- (f) paragraphs 24(1) and (7) and 34 of Schedule 6 (capital to be disregarded).
- (4) In regulation 74, after sub-paragraph (9)(c) insert—
- “(d) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during

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(12) S.I. 2006/213. Relevant amending instruments are S.I. 2007/2868, 2008/2767 and 3157, 2010/641, 2011/2425, 2013/591 and 2017/329, 422 and 689.

their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

(5) In regulation 86(4)(a)(ii) (evidence and information), omit “, the Scottish Infected Blood Support Scheme”.

(6) In Schedule 6, after paragraph 62 add—

“**63.** Any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

### **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 credit) Regulations 2006(**13**) are amended as follows.

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

(a) in the appropriate place insert—

““approved blood scheme” means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;”;

(b) in the definition of “qualifying person”, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”.

(3) In each of the following provisions, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”—

(a) regulation 55(10)(b) (non-dependant deductions);

(b) paragraph 16(1)(a) of Schedule 6 (capital to be disregarded).

(4) In regulation 55, after sub-paragraph (10)(c) insert—

“(d) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

(5) In regulation 67(4)(a)(ii) (evidence and information), omit “, the Scottish Infected Blood Support Scheme”.

(6) In Part 1 of Schedule 6, after paragraph 26H add—

“**26I.** Any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

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

8.—(1) The Employment and Support Allowance Regulations 2008(**14**) are amended as follows.

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(13) S.I. 2006/214. Relevant amending instruments are S.I. 2007/2869, 2008/1042 and 2767, 2010/641, 2011/2425, 2013/591 and 2017/329, 422 and 689.

(14) S.I. 2008/794. Relevant amending instruments are S.I. 2008/2428, 2010/641, 2011/2425, 2013/591 and 2017/329, 422 and 689.

- (2) In regulation 2(1) (interpretation)—
- (a) in the appropriate place insert—
- ““approved blood scheme” means a scheme established or approved by the Secretary of State, or trust established with funds provided by the Secretary of State, for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;”;
- (b) in the definition of “qualifying person”, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”.
- (3) In each of the following provisions, after “the Scottish Infected Blood Support Scheme” insert “, an approved blood scheme”—
- (a) regulation 107(5)(a) (notional income – income due to be paid or income paid to or in respect of a third party);
- (b) regulation 112(8) (income treated as capital);
- (c) regulation 115(5)(a) (notional capital);
- (d) paragraph 19(8)(b) of Schedule 6 (housing costs);
- (e) paragraphs 22(2) and 41(1) and (7) of Schedule 8 (sums to be disregarded in the calculation of income other than earnings);
- (f) paragraphs 27(1) and (7) and 31 of Schedule 9 (capital to be disregarded).
- (4) In Schedule 6, after paragraph 19(8)(c) add—
- “(d) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.
- (5) In Schedule 9, after paragraph 60 add—
- “**61.** Any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

### **Amendments to the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008**

- 9.** In regulation 7(2) of the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008(**15**) (exempted trusts and payments), after sub-paragraph (k) add—
- “(l) any payment made from a scheme established or approved by the Secretary of State or trust established with funds provided by the Secretary of State for the purpose of providing compensation in respect of a person having been infected from contaminated blood products;
- (m) any payment made under or by a trust, established for the purpose of giving relief and assistance to disabled persons whose disabilities were caused by the fact that during their mother’s pregnancy she had taken a preparation containing the drug known as Thalidomide, and which is approved by the Secretary of State.”.

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

5th September 2017 at 9.15 a.m.

*Penny Mordaunt*  
Minister of State  
Department for Work and Pensions

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

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

These Regulations provide that payments made:

- Under or by certain schemes or trusts established for the purpose of providing compensation to those who have been infected from contaminated blood products, or
- Under or by certain trusts established for the purpose of giving relief and assistance to disabled people whose disabilities were caused by the fact that during their pregnancy their mother had taken the drug known as Thalidomide,

are to be ignored for certain social security purposes.

Regulations 4 and 9 amend the Social Security (Recovery of Benefits) Regulations 1997 ([S.I. 1997/2205](#)) and the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 ([S.I. 2008/1596](#)) to exempt payments from such schemes or trusts from the compensation recovery schemes established under the Social Security (Recovery of Benefits) Act 1997 ([c. 27](#)).

Regulations 2, 3 and 5 to 8 amend the following Regulations to provide that payments made from such schemes or trusts are not taken into account in the calculation of income or capital as appropriate:

- the Income Support (General) Regulations 1987 ([S.I. 1987/1967](#)),
- the Jobseeker's Allowance Regulations 1996 ([S.I. 1996/207](#)),
- the State Pension Credit Regulations 2002 ([S.I. 2002/1792](#)),
- the Housing Benefit Regulations 2006 ([S.I. 2006/213](#)),
- the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 ([S.I. 2006/214](#)), and
- the Employment and Support Allowance Regulations 2008 ([S.I. 2008/794](#)).

Regulations 6 and 7 also provide that evidence may be required from claimants in respect of payments from the Scottish Infected Blood Support Scheme in accordance with the evidence and information provisions of the Housing Benefit Regulations 2006 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006.

An impact assessment has not been produced for this instrument as it has no new impact on business or civil society organisations.