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1979 No. 1504

## SOCIAL SECURITY

**The Family Income Supplements (General) Amendment (No. 2)  
Regulations 1979**

*Made - - - - 23rd November 1979*  
*Laid before Parliament 30th November 1979*  
*Coming into Operation 31st December 1979*

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 4(1), 4(2), 6(2) and 10 of the Family Income Supplements Act 1970(a) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

*Citation, interpretation and commencement*

1.—(1) These regulations may be cited as the Family Income Supplements (General) Amendment (No. 2) Regulations 1979 and shall come into operation on 31st December 1979.

(2) In these regulations “the principal regulations” means the Family Income Supplements (General) Regulations 1971(b).

*Amendment of regulation 1 of the principal regulations*

2. In regulation 1(2) of the principal regulations (definitions) after the definition “‘the appointed day’ means the day appointed by the Secretary of State under section 16 of the Act” the following definitions shall be inserted in the correct alphabetical order:—

“ ‘advanced education’ means full-time education for the purposes of—

- (a) a course in preparation for a degree, a diploma of higher education, a higher national diploma or a teaching qualification; or
- (b) any other course which is certified by the Secretary of State as being a course of a standard above ordinary national diploma, general certificate of education (advanced level) or Scottish certificate of education (higher grade);

‘education authority’ in England and Wales shall have the same meaning as ‘local education authority’ in section 6 of the Education Act 1944(c) and in Scotland shall have the same meaning as the words ‘education authority’ in section 145(16) of the Education (Scotland) Act 1962(d).

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(a) 1970 c. 55; as substituted in the case of section 6(2) by the Pensioners and Family Income Supplement Payments Act 1972 (c. 75), section 3.

(b) S.I. 1971/226; relevant amending instruments are S.I. 1972/1282, 1975/1360, 1977/324.

(c) 1944 c. 31; as amended by S.I. 1974/595, 1977/293.

(d) 1962 c. 47; section 145(16) was amended by the Local Government (Scotland) Act 1973 (c. 65), section 129 and Schedule 11 paragraph 12.

'educational maintenance allowance' means the gross amount of any allowance or bursary paid by an education authority for the maintenance (in whole or in part) of a child aged not less than sixteen years undergoing a course of education other than a course of advanced education, and, in Scotland, shall include any higher school bursary paid by an education authority to such a child.

'recognised educational establishment' means an establishment recognised by the Secretary of State as being, or as comparable to, a university, college or school."

*Amendment of regulation 2 of the principal regulations*

3. At the end of regulation 2 of the principal regulations (computation of normal gross income of members of a family) there shall be inserted the following provisions:—

“(h) the whole of any sums by way of mobility allowance under section 37A of the Social Security Act 1975(a);

(i) the whole of any award of educational maintenance allowance.

(6) The normal gross income of a family shall include the income of a child of that family derived from:

(a) the mother or father of that child, or any other person under a legally enforceable obligation to maintain that child;

(b) any fund to which the mother or father of that child, or any other person under a legally enforceable obligation to maintain that child, has contributed.”

*Amendment of regulation 3(3) of the principal regulations*

4. In regulation 3(3) of the principal regulations (claims made during a transitional period) for all of the words between “conferred by” and “a claim” (exclusive of both expressions) there shall be substituted the words “the Act and”.

*Amendment of regulation 9 of the principal regulations*

5. For regulation 9 of the principal regulations (circumstances in which a person of or over the age of sixteen is to be treated as a child) there shall be substituted the following regulation:—

“9.—(1) For the purposes of the Act a person of or over the age of sixteen shall be treated as a child if at the date when benefit is claimed he is under the age of nineteen and receives full-time education not being advanced education by attendance at a recognised educational establishment.

(2) A person shall be treated for the purposes of paragraph (1) as receiving full-time education if he is receiving—

(a) primary or secondary education in England or Wales otherwise than at school under special arrangements made under section 56 of the Education Act 1944(b); or

(a) 1975 c. 14; section 37A was inserted by the Social Security Pensions Act 1975 (c. 60), section 22.

(b) 1944 c. 31; section 56 was amended by the Education (Miscellaneous Provisions) Act 1948 (c. 40), section 11 and Schedule 1, part 1 and by S.I. 1964/490.

(b) school education in Scotland elsewhere than at an educational establishment under special arrangements made under section 14 of the Education (Scotland) Act 1962(a).”

*Amendment of regulation 11 of the principal regulations*

6. After regulation 11(1) of the principal regulations (review of determinations made by the Commission and the Appeal Tribunal) there shall be inserted the following paragraph:—

“(1A) Where a review under paragraph (1)(a) arises from a disclosure of a material fact of which a person who claimed benefit was, or could reasonably have been expected to be, aware but of which he previously failed to furnish information to the Secretary of State, then if that review would result in either a new award of benefit or in an increase in the amount of benefit payable, such benefit or increase of benefit shall not be payable in respect of any period earlier than twelve months before the date on which that person first furnished that information.”

*Patrick Jenkin,*

Secretary of State for Social Services.

23rd November 1979.

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EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations further amend the Family Income Supplements (General) Regulations 1971 (“the principal regulations”).

Regulation 2 defines “advanced education”, “education authority”, “educational maintenance allowance” and “recognised educational establishment”.

Regulation 3, together with the definitions contained in regulation 2, adds mobility allowance and educational maintenance allowance to the list of deductions to be made in the calculation of normal gross income for the purposes of the Act (set out in regulation 2 of the principal regulations). Regulation 3 also provides that certain income of a child derived, directly or indirectly, from a parent or person under a legal obligation to maintain that child is to be included in the normal gross income of the family of which that child is a member.

Regulation 4 amends regulation 3(3) of the principal regulations so that if any claim for benefit is made after a regulation under the Family Income Supplements Act 1970 is made, but before it comes into operation, the transitional provisions (enabling certain persons to claim benefit) will apply provided the claim is made not more than fifty-six days before that regulation comes into operation.

Regulation 5, together with the definitions contained in regulation 2, prescribes the circumstances in which a person of or over the age of sixteen is to be treated as a child.

Regulation 6 amends regulation 11 of the principal regulations to limit the Supplementary Benefits Commission’s power to review a decision, in certain circumstances, on the ground that it was made in ignorance of a material fact of which the claimant was, or ought reasonably to have been, aware in respect of any period earlier than twelve months before that material fact was disclosed to the Secretary of State.

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(a) 1962 c. 47; section 14 was amended by the Education (Scotland) Act 1969 (c. 49), section 27, Schedule 2, paragraph 9 and Schedule 3.

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