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STATUTORY INSTRUMENTS

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**1991 No. 1175**

**The Income-related Benefits Schemes and Social Security (Recoupment) Amendment Regulations 1991**

**Amendment of the Income Support Regulations**

5.—(1) The Income Support Regulations shall be amended in accordance with the following paragraphs.

(2) In regulation 2 (interpretation) after the definition of “the Macfarlane (Special Payments) Trust” there shall be inserted the following definition—

““the Macfarlane (Special Payments) (No. 2) Trust” means the trust of that name, established on 3rd May 1991 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia and other beneficiaries;”.

(3) In regulation 42(4) (notional income) after the words “the Macfarlane (Special Payments) Trust” there shall be inserted the words “, the Macfarlane (Special Payments) (No. 2) Trust”.

(4) In regulation 48(10)(c) (income treated as capital) after the words “the Macfarlane (Special Payments) Trust” there shall be inserted the words “, the Macfarlane (Special Payments) (No. 2) Trust”.

(5) In regulation 51(3) (notional capital) after the words “the Macfarlane (Special Payments) Trust” there shall be inserted the words “, the Macfarlane (Special Payments) (No. 2) Trust”.

(6) In regulation 72(1)(a) (assessment of income and capital in urgent cases)—

- (a) after the words “payment of income” there shall be inserted the words “or income in kind”;
- (b) after the words “the Macfarlane (Special Payments) Trust” there shall be inserted the words “, the Macfarlane (Special Payments) (No. 2) Trust”;
- (c) for the words “paragraph 5,” there shall be substituted the words “paragraph 5, 39(2), (3) or (4),”.

(7) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 21(2) after the words “the Macfarlane (Special Payments) Trust” there shall be inserted the words “, the Macfarlane (Special Payments) (No. 2) Trust”;
- (b) for paragraph 39 there shall be substituted the following new paragraph—

“39.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust (“the Trusts”), or the Independent Living Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia, which derives from a payment made under any of the Trusts to which subparagraph (1) refers and which is made to or for the benefit of—

- (a) that person’s partner or former partner from whom he is not, or where that person has died was not, estranged or divorced;
- (b) any child who is a member of that person’s family or who was such a member and who is a member of the claimant’s family; or

- (c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.
- (3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, which derives a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—
  - (a) the person who is suffering from haemophilia;
  - (b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or
  - (c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.
- (4) Any payment by a person who is suffering from haemophilia, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—
  - (a) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person's family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent, or
    - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,but only for a period from the date of the payment until the end of two years from that person's death.
- (5) Any payment out of the estate of a person who suffered from haemophilia, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—
  - (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced, nor any child or young person who was or had been a member of his family; and
  - (b) the payment is made either—
    - (i) to that person's parent or step-parent, or
    - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,but only for a period of two years from the relevant date.
- (6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any income which derives from any payment of income or capital made under or deriving from any of the Trusts.”.
- (8) In Schedule 10 (capital to be disregarded)—
  - (a) for paragraph 22 there shall be substituted the following new paragraph—

“22.—(1) Any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments)(No. 2) Trust (“the Trusts”), or the Independent Living Fund.

(2) Any payment by or on behalf of a person who is suffering or who suffered from haemophilia, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) that person's partner or former partner from whom he is not, or where that person has died was not, estranged or divorced;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(3) Any payment by or on behalf of the partner or former partner of a person who is suffering or who suffered from haemophilia provided that the partner or former partner and that person are not, or if either of them has died were not, estranged or divorced, which derives from a payment made under any of the Trusts to which sub-paragraph (1) refers and which is made to or for the benefit of—

- (a) the person who is suffering from haemophilia;
- (b) any child who is a member of that person's family or who was such a member and who is a member of the claimant's family; or
- (c) any young person who is a member of that person's family or who was such a member and who is a member of the claimant's family.

(4) Any payment by a person who is suffering from haemophilia, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person has no partner or former partner from whom he is not estranged or divorced, nor any child or young person who is or had been a member of that person's family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the date of the payment is a child, a young person or a student who has not completed his full-time education and has no parent or step-parent, to his guardian,

but only for a period from the date of the payment until the end of two years from that person's death.

(5) Any payment out of the estate of a person who suffered from haemophilia, which derives from a payment under any of the Trusts to which sub-paragraph (1) refers, where—

- (a) that person at the date of his death (the relevant date) had no partner or former partner from whom he was not estranged or divorced, nor any child or young person who was or had been a member of his family; and
- (b) the payment is made either—
  - (i) to that person's parent or step-parent, or
  - (ii) where that person at the relevant date was a child, a young person or a student who had not completed his full-time education and had no parent or step-parent, to his guardian,

but only for a period of two years from the relevant date.

(6) In the case of a person to whom or for whose benefit a payment referred to in this paragraph is made, any capital resource which derives from any payment of income or capital made under or deriving from any of the Trusts.”

- (b) in paragraph 29 at the end the following words shall be added—“or the Macfarlane (Special Payments) (No. 2) Trust”.