
STATUTORY INSTRUMENTS

1996 No. 462

SOCIAL SECURITY

**The Income-related Benefits Schemes
(Miscellaneous Amendments) Regulations 1996**

Made - - - - 28th February 1996
Laid before Parliament 4th March 1996
*Coming into force in
accordance with regulation 1*

The Secretary of State for Social Security, in exercise of the powers conferred by sections 123(1), 130(2), 134(1), 135(1) and (6), 136(2), (3) and (5)(a) and (b), 137(1) and (2)(h) and (i) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(1), sections 5(1)(b) and 6(1) (b) of the Social Security Administration Act 1992(2) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(3), and after consultation, in respect of provisions in these Regulations relating to housing benefit and council tax benefit, with organisations appearing to the Secretary of State to be representative of the authorities concerned(4), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1996 and this regulation shall come into force on 1st April 1996.

(2) In so far as these Regulations amend provisions relating to income support they shall come into force on 8th April 1996 and, in relation to any particular claimant for that benefit, shall have effect from the beginning of the first benefit week to commence for that claimant on or after that date.

(3) In paragraph (2) above, the expressions “claimant” and “benefit week” have the same meaning as in the Income Support Regulations.

(4) In so far as these Regulations amend provisions relating to housing benefit or council tax benefit they shall come into force on 1st April 1996.

(1) 1992 c. 4; sections 123, 130, 135, 136 and 137 of the Contributions and Benefits Act 1992 were amended to have effect with respect to council tax benefit by Schedule 9 to the Local Government Finance Act 1992 (c. 14); section 137(1) is an interpretation provision and is cited because of the meaning assigned to the word “prescribed”.

(2) 1992 c. 5; section 6(1)(b) was amended by the Local Government Finance Act 1992 (c. 14), Schedule 9, paragraph 12.

(3) See the Social Security Administration Act 1992 (c. 5), section 173(1)(b) and (7).

(4) See the Social Security Administration Act 1992, section 176(1).

(5) In so far as these Regulations amend provisions relating to family credit or disability working allowance, they shall come into force on 9th April 1996 and, in relation to any particular claimant for either of those benefits, they shall have effect —

- (a) where a claimant has an award of family credit or disability working allowance which is current on 9th April 1996, on the day following the expiration of that award; or
- (b) in any other case, on 9th April 1996.

(6) In these Regulations—

“the Disability Working Allowance Regulations” means the Disability Working Allowance (General) Regulations 1991;(5)

“the Family Credit Regulations” means the Family Credit (General) Regulations 1987;(6)

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987;(7)

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992;(8)

“the Income Support Regulations” means the Income Support (General) Regulations 1987.(9)

Income support: Preserved rights

2. In regulation 19 of the Income Support Regulations (applicable amounts for persons in residential care and nursing homes) after paragraph (1ZQ)(10) there is inserted —

“(1ZR) A person who acquired a preserved right under paragraph (1ZB) or (1ZC)(11) shall cease to have that right if —

- (a) he resides in a home which falls within sub-paragraph (c) of the definition of “residential care home” in paragraph (3) (homes run by the Abbeyfield Society) and which is not registered or deemed to be registered under any of the enactments referred to in sub-paragraph (a) or (e) of that definition;
- (b) he requires personal care, including assistance with bodily functions, and that residential care home does not provide such care; and
- (c) he, or a person on his behalf, contracts with another person or body to provide that care,

but that preserved right shall revive if any of the conditions specified in sub-paragraphs (a) to (c) above ceases to apply and that person would, but for this provision, have retained that right.”.

Housing benefit and council tax benefit: Severe disability premium

3.—(1) In paragraph 13 of Schedule 2 to the Housing Benefit Regulations and paragraph 14 of Schedule 1 to the Council Tax Benefit Regulations (which prescribe the condition for the inclusion of severe disability premium in the applicable amount) after sub-paragraph (3) in each case there is inserted—

“(3A) For the purposes of sub-paragraph (2)(b) a person shall be treated as being in receipt of—

(5) S.I. 1991/2887.

(6) S. I. 1987/1973.

(7) S.I. 1987/1971.

(8) S.I. 1992/1814.

(9) S.I. 1987/1967.

(10) Paragraph (1ZQ) was inserted by S.I. 1994/2139, regulation 24(5).

(11) Paragraphs (1ZB) and (1ZC) were inserted by S.I. 1992/3147, regulation 3(1)(b).

- (a) attendance allowance, or the care component of disability living allowance at the highest or middle rate prescribed in accordance with section 72(3) of the Contributions and Benefits Act, if he would, but for his being a patient for a period exceeding 28 days, be so in receipt;
- (b) invalid care allowance if he would, but for the person for whom he was caring being a patient for a period exceeding 28 days, be so in receipt.”

(2) In paragraph 15(5)(b)(i) of Schedule 2 to the Housing Benefit Regulations (which specifies the amount of severe disability premium where the claimant has a partner), at the end there is added—
“or if he or any partner satisfies that condition only by virtue of paragraph 13(3A)”.

(3) In paragraph 19(6)(b)(i) of Schedule 1 to the Council Tax Benefit Regulations (which specifies the amount of severe disability premium where the claimant has a partner), at the end there is added—
“or if he or any partner satisfies that condition only by virtue of paragraph 14(3A)”.

Housing benefit and council tax benefit: Disregard of family credit and disability working allowance

4.—(1) In Schedule 4 to the Housing Benefit Regulations (sums to be disregarded in the calculation of income other than earnings) for paragraphs 57 and 58(12) there is substituted—

“57. Where the claimant is entitled to the allowance under regulation 51(1)(bb) of the Disability Working Allowance (General) Regulations 1991(13) (which applies in respect of a person who works for not less than 30 hours a week), any amount of disability working allowance up to the amount specified in Column (2) against paragraph 2A(14) of Schedule 5 to those Regulations.

58. Where the claimant is entitled to the credit under regulation 46(1)(aa) of the Family Credit (General) Regulations 1987(15) (which applies in respect of a person who works for not less than 30 hours a week), any amount of family credit up to the amount specified in Column (2) against paragraph 1A(16) of Schedule 4 to those Regulations.”

(2) In Schedule 4 to the Council Tax Benefit Regulations (sums to be disregarded in the calculation of income other than earnings) for paragraphs 56 and 57(17) here is substituted—

“56. Where the claimant is entitled to the allowance under regulation 51(1)(bb) of the Disability Working Allowance (General) Regulations 1991 (which applies in respect of a person who works for not less than 30 hours a week), any amount of disability working allowance up to the amount specified in Column (2) against paragraph 2A of Schedule 5 to those Regulations.

57. Where the claimant is entitled to the credit under regulation 46(1)(aa) of the Family Credit (General) Regulations 1987 (which applies in respect of a person who works for not less than 30 hours a week), any amount of family credit up to the amount specified in Column (2) against paragraph 1A of Schedule 4 to those Regulations.”

Housing benefit and council tax benefit: Backdated claims

5. In regulation 72(15) of the Housing Benefit Regulations and regulation 62(16) of the Council Tax Benefit Regulations (which make provision for claims relating to past periods) for the words from “any period before” to the end there is substituted —

(12) aragraphs 57 and 58 were added by S.I. 1995/1339, regulation 9.

(13) S.I. 1991/2887; paragraph (1)(bb) of regulation 51 was inserted by S.I. 1995/1339, regulation 4; another relevant amending instrument is S.I. 1995/482, regulation 3.

(14) Paragraph 2A was inserted by S.I. 1995/1339, regulation 5.

(15) S.I. 1987/1973; paragraph (1)(aa) of regulation 46 was inserted by S.I. 1995/1339, regulation 7; another relevant amending instrument is S.I. 1988/660, regulation 11(a).

(16) Paragraph 1A was inserted by S.I. 1995/1339, regulation 8.

(17) Paragraphs 56 and 57 were added by S.I. 1995/1339, regulation 2.

“a past period (a “claim for backdating”) and, from a day in that period up to the date of the claim for backdating, he had continuous good cause for his failure to make a claim, his claim in respect of that period shall be treated as made on—

- (a) the first day from which he had continuous good cause; or
- (b) the day 52 weeks before the date of the claim for backdating, whichever fell later.”.

Housing benefit: Exempt accommodation

6. In regulation 10 of the Housing Benefit (General) Amendment Regulations 1995(18) (which makes savings in relation to persons entitled to housing benefit before those Regulations came into force), in paragraph (6), in the definition of “exempt accommodation” for sub-paragraph (i) there is substituted—

- “(i) a resettlement place provided by persons to whom the Secretary of State has given assistance by way of grant pursuant to section 30 of the Jobseekers Act 1995(19) (grants for resettlement places); and for this purpose “resettlement place” shall have the same meaning as it has in that section; or”.

Family credit: Normal weekly income of employed earners

7. In regulation 14(2) of the Family Credit Regulations (normal weekly earnings of employed earners) for sub-paragraph (aa)(20) there is substituted—

- “(aa) a fortnight—
- (i) except where head (ii) applies, a period of three consecutive fortnights immediately preceding the week of claim; or
 - (ii) where the adjudication officer has insufficient information for the claimant’s normal weekly earnings to be determined in accordance with head (i), a period of three consecutive fortnights ending with the fortnight before the week immediately preceding the week of claim;”.

Income-related benefits: Disregard of charitable or voluntary payments

8. In the following provisions (which provide for certain charitable or voluntary payments to be disregarded in the calculation of income other than earnings, the amount of such payments to be disregarded and special arrangements where the claimant has other income, apart from such payments, to be disregarded) for “£10” there is substituted “£20”—

- (a) regulation 65(21) of, and paragraphs 15(1)(22) and 36(23) of Schedule 9 to, the Income Support Regulations;
- (b) regulation 56(24) of, and paragraphs 13(1)(25) and 33(26) of Schedule 4 to, the Housing Benefit Regulations;

(18) S.I. 1995/1644.

(19) 1995 c. 18.

(20) Regulation 14 was substituted by S.I. 1992/573, regulation 4 and paragraph (2)(aa) was inserted by S.I. 1994/2139, regulation 12.

(21) Regulation 65 was amended by S.I. 1990/547, regulation 14.

(22) Paragraph 15(1) was substituted by S.I. 1993/2119, regulation 23.

(23) Paragraph 36 was amended by S.I. 1990/547, regulation 22 and S.I. 1990/1657, regulation 5.

(24) Regulation 56 was amended by S.I. 1990/546, regulation 9.

(25) Paragraph 13(1) was substituted by S.I. 1990/1775, regulation 11(a).

(26) Paragraph 33 was amended by S.I. 1990/546, regulation 16(b) and S.I. 1990/1657, regulation 4(3).

- (c) regulation 45 of, and paragraphs 13(1) and 34 of Schedule 4 to, the Council Tax Benefit Regulations;
- (d) regulation 45 of, and paragraphs 12(1) and 29 of Schedule 3 to, the Disability Working Allowance Regulations;
- (e) regulation 41(27) of, and paragraphs 13(1)(28) and 29(29) of Schedule 2 to, the Family Credit Regulations.

Income-related benefits: Treatment of student loans

9.—(1) In each of the regulations specified in paragraph (2) below (which provide for student loans to be treated as income) for paragraph (3) there is substituted—

“(3) For the purposes of this regulation a student shall be treated as possessing the maximum amount of any loan referred to in paragraph (1) which he will be able to acquire in respect of an academic year by taking reasonable steps to do so.”.

- (2) The provisions referred to in paragraph (1) above are—
 - (a) regulation 66A(30) of the Income Support Regulations;
 - (b) regulation 57A(31) of the Housing Benefit Regulations;
 - (c) regulation 47 of the Council Tax Benefit Regulations;
 - (d) regulation 42A(32) of the Family Credit Regulations;
 - (e) regulation 47 of the Disability Working Allowance Regulations.

Income-related benefits: Disregard of contribution to a student grant

10.—(1) In each of the provisions specified in paragraph (2) below, (disregard of contribution) for the words from “the income”, where they first appear, to the end there is substituted—

“, for the purposes of assessing a contribution to the student’s grant, the other partner’s income has been taken into account, an amount equal to that contribution shall be disregarded for the purposes of assessing that other partner’s income.”.

- (2) The provisions referred to in paragraph (1) above are—
 - (a) regulation 67 of the Income Support Regulations;
 - (b) regulation 58(1) of the Housing Benefit Regulations;
 - (c) regulation 48 of the Council Tax Benefit Regulations;
 - (d) regulation 43 of the Family Credit Regulations;
 - (e) regulation 48 of the Disability Working Allowance Regulations.

Income-related benefits: Disregard of payments to holders of the Victoria or George Cross

11.—(1) In Schedule 10 to the Income Support Regulations (capital to be disregarded) after paragraph 45 there is added the following paragraph—

“46. Any payment to the claimant as holder of the Victoria Cross or George Cross.”.

(27) Regulation 41 was amended by S.I. 1990/574, regulations 13 and 41.

(28) Paragraph 13(1) was substituted by S.I. 1990/574, regulation 14.

(29) Paragraph 29 was amended by S.I. 1990/574, regulation 14 and S.I. 1990/1657, regulation 3.

(30) Regulation 66A was inserted by S.I. 1990/1549, regulation 5(7).

(31) Regulation 57A was inserted by S.I. 1990/1549, regulation 4(9).

(32) Regulation 42A was inserted by S.I. 1990/1549, regulation 3(5).

(2) In Schedule 5 to the Housing Benefit Regulations, Schedule 5 to the Council Tax Benefit Regulations and Schedule 4 to the Disability Working Allowance Regulations (capital to be disregarded) after paragraph 47 there is added the following paragraph—

“48. Any payment to the claimant as holder of the Victoria Cross or George Cross.”.

(3) In Schedule 3 to the Family Credit Regulations (capital to be disregarded) after paragraph 48 there is added the following paragraph—

“49. Any payment to the claimant as holder of the Victoria Cross or George Cross.”.

Income support and housing benefit: Capital limits for persons in residential and other types of accommodation

12.—(1) In the Income Support Regulations—

(a) for regulation 45(33) (capital limit for entitlement to income support) there is substituted—

“45. For the purposes of section 134(1) of the Contributions and Benefits Act as it applies to income support (no entitlement to benefit if capital exceeds prescribed amount)

(a) except where paragraph (b) applies, the prescribed amount is £8,000;

(b) where the circumstances prescribed in regulation 53(1B) apply in the claimant’s case, the prescribed amount is £16,000.”;

(b) in regulation 53 (calculation of tariff income from capital) —

(i) in paragraph (1)(34), at the beginning, there is inserted “Except where the circumstances prescribed in paragraph (1B) apply to the claimant,”;

(ii) after paragraph (1), there is inserted—

“(1A) Where the circumstances prescribed in paragraph (1B) apply to the claimant and that claimant’s capital calculated in accordance with this Part exceeds £10,000, it shall be treated as equivalent to a weekly income of £1 for each complete £250 in excess of £10,000 but not exceeding £16,000.

(1B) For the purposes of paragraph (1A) and regulation 45, the prescribed circumstances are that the claimant lives permanently in—

(a) a residential care or nursing home, or residential accommodation and that home or accommodation provides board and personal care for the claimant by reason of his old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder; or

(b) an establishment run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society; or

(b) accommodation provided under section 3 of, and Part II of the Schedule to, the Polish Resettlement Act 1947(35) (provision of accommodation in camps) where the claimant requires personal care and is provided with it in the accommodation; and in this sub-paragraph, “personal care” means care which includes assistance with bodily functions where such assistance is required.

(1C) For the purposes of paragraph (1B), a claimant shall be treated as living permanently in such home or accommodation where he is absent—

(33) The capital limit in regulation 45 was substituted by S.I. 1990/671.

(34) The upper capital limit in regulation 53(1) was substituted by S.I. 1990/671, regulation 5(2).

(35) 1947 c. 19.

- (a) from a home or accommodation referred to in sub-paragraph (a) or (b) of paragraph (1B)—
 - (i) in the case of a claimant referred to in regulation 19(2) or in the case of a person over pensionable age, for a period not exceeding 52 weeks, and
 - (ii) in any other case, for a period not exceeding 13 weeks;
 - (b) from accommodation referred to in sub-paragraph (c) of paragraph (1B), where the claimant, with the agreement of the manager of the accommodation, intends to return to the accommodation in due course.”;
 - (iii) in both paragraphs (2) and (3)(36), for “paragraph (1)”, there is substituted “paragraphs (1) and (1A)”;
 - (iv) after paragraph (3) there is added—

“(4) For the purposes of this regulation, the definition of “residential accommodation” in regulation 21(3)(37) (applicable amounts of income support in special cases) shall have effect as if, after the words “subject to the following provisions of this regulation”, there were inserted “(except paragraphs (4) and (4A))”.”.
- (2) In the Housing Benefit Regulations—
- (a) in regulation 7 (circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling) —
 - (i) in sub-paragraph (a) of paragraph (6)(38), for the words “5(8)” there is substituted the words “5(7C), (8) or (8C)(39)”;
 - (ii) for paragraph (9)(40) there is substituted the following paragraph—

“(9) For the purposes of paragraph (8), any absence shall be disregarded during which the person is treated as occupying the accommodation as his home pursuant to regulation 5(7C), (8) or (8C).”;
 - (b) in regulation 45 (calculation of tariff income from capital) —
 - (i) in paragraph (1)(41), at the beginning, there is inserted “Except where the circumstances prescribed in paragraph (1B) apply to the claimant,”;
 - (ii) after paragraph (1), there is inserted—

“(1A) Where the circumstances prescribed in paragraph (1B) apply to a claimant and that claimant’s capital calculated in accordance with this Part exceeds £10,000, it shall be treated as equivalent to a weekly tariff income of £1 for each complete £250 in excess of £10,000 but not exceeding £16,000.

(1B) For the purposes of paragraph (1A), the prescribed circumstances are that the claimant—

 - (a) occupies residential accommodation as his home; or

(36) Regulation 53(3) was amended by S.I. 1988/2022, regulation 13.

(37) The definition of "residential accommodation" in regulation 21(3) was amended by S.I. 1992/3147, paragraph 3(a) of Schedule 1, 1994/2139, regulation 25(a) and 1995/516, regulation 21(a)(ii).

(38) Regulation 7(6) and (9) was inserted by S.I. 1992/3147, regulation 5(3).

(39) Regulation 5(7C) and (8C) was inserted, and regulation 5(8) amended, by S.I. 1995/625, regulation 2(2) and (4).

(40) Regulation 7(6) and (9) was inserted by S.I. 1992/3147, regulation 5(3).

(41) The upper capital limit in regulation 45(1) was substituted by S.I. 1990/671, regulation 4(2).

(b) is a person to whom regulation 7(2), (5) or (7)(42) applies (exceptions to circumstances in which a person is to be treated as not liable to make payments in respect of a dwelling).

(1C) For the purposes of paragraph (1B), the claimant shall be treated as occupying residential accommodation as his home or as a person to whom regulation 7(2), (5) or (7) applies in any period during which he is treated as occupying the accommodation as his home pursuant to regulation 5(7C), (8) or (8C).”;

(iii) in both paragraphs (2) and (3)(43), for “paragraph (1)”, there is substituted “paragraphs (1) and (1A)”;

(iv) after paragraph (3), there is added—

“(4) For the purposes of this regulation and subject to paragraph (5), “residential accommodation” means accommodation which is provided by an establishment—

(a) under sections 21 to 24 of the National Assistance Act 1948(44) (provision of accommodation) or under section 59 of the Social Work (Scotland) Act 1968(45) (provision of residential and other establishments) where board is not available to the claimant and the home in which the accommodation is provided is either owned or managed or owned and managed by a local authority;

(b) which is managed or provided by a body incorporated by Royal Charter or constituted by Act of Parliament (other than a social services authority) and provides both board and personal care for the claimant; and in this sub-paragraph, “personal care” means care which includes assistance with bodily functions where such assistance is required;

(c) which is run by the Abbeyfield Society including all bodies corporate or incorporate which are affiliated to that Society,

and in this definition, “board” has the same meaning as in regulation 8(2)(b).(46)

(5) Paragraph (4) shall not apply to residential accommodation of the type—

(a) referred to in sub-paragraph (a) of paragraph (4) where housing benefit is not payable in respect of payments relating to that accommodation by virtue of regulation 8(2ZA) or (2ZB);(47) or

(b) referred to in sub-paragraph (b) or (c) of paragraph (4) where such accommodation is residential accommodation for the purposes of regulation 7 and none of paragraphs (2), (5) or (7) of that regulation apply to the claimant in respect of that accommodation.”.

(42) Regulation 7(2) was amended by, and regulation 7(4), (5), (6) and (7) was inserted by, S.I. 1992/3147, regulation 5(2) and (3).

(43) Regulation 45(3) was amended by S.I. 1988/1971, regulation 14.

(44) 1948 c. 29; section 21 was amended by the National Health Service and Community Care Act 1990 (c. 19), section 42(1).

(45) 1968 c. 49.

(46) Regulation 8(2)(b) was substituted by S.I. 1992/3147, regulation 6(1)(b).

(47) Regulation 8(2ZA) and (2ZB) was inserted by S.I. 1993/518, regulation 6(b).

Signed by authority of the Secretary of State for Social Security.

Department of Social Security
28th February 1996

Roger Evans
Parliamentary Under-Secretary of State,

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971), the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814), the Family Credit (General) Regulations 1987 (S.I. 1987/1973) and the Disability Working Allowance (General) Regulations 1991 (S.I. 1991/2887) in the following respects.

With regard to income support, provision is made for the preserved rights of a person in a residential care home run by the Abbeyfield Society to cease if arrangements are made to provide him with personal care (regulation 2).

With regard to housing benefit and council tax benefit, provision is made—

- for the severe disability premium payable to a couple to continue if one partner is in hospital (regulation 3);

- for the additional family credit and disability working allowance payable to persons who work for 30 hours or more per week to be disregarded in the calculation of income (regulation 4);

- for clarifying regulations relating to backdated claims (regulation 5).

With regard to family credit, provision is made for the calculation of normal weekly income where a person is paid fortnightly (regulation 7).

With regard to all income-related benefits, provision is made —

- for increasing to £20 the disregard of certain charitable or voluntary payments in the calculation of income and for increasing the maximum amount to be disregarded from a claimant's income in respect of such payments (regulation 8);

- for treating as income a student loan which a person will be able to acquire if he takes reasonable steps to do so (regulation 9);

- for clarifying regulations relating to the disregard of a partner's contribution to a student grant in the calculation of the partner's income (regulation 10);

- for any payment to a claimant as holder of the Victoria Cross or George Cross to be disregarded in the calculation of capital (regulation 11).

Regulation 6 amends the definition of “exempt accommodation” in regulation 10 (saving) of the Housing Benefit (General) Amendment Regulations 1995.

Regulation 12 amends the capital limits in respect of claimants for income support and housing benefit who are in residential care, nursing homes or other types of residential accommodation. In relation to income support and housing benefit, the amount to be disregarded in the assessment of tariff income from capital is increased from £3,000 to £10,000 (paragraphs (1)(b) and (2)(b)). The upper capital limit for claimants for income support is increased from £8,000 to £16,000 (paragraph (1)(a)). Provision is also made for cases of temporary absence from residential accommodation and some consequential amendments are made to the relevant regulations.

These Regulations do not impose any costs on business.