
STATUTORY INSTRUMENTS

1997 No. 2197

SOCIAL SECURITY

**The Income-related Benefits and Jobseeker's
Allowance (Amendment) (No. 2) Regulations 1997**

Made - - - - 9th September 1997
Laid before Parliament 12th September 1997
Coming into force in accordance with regulation 1

The Secretary of State for Social Security in exercise of powers conferred upon her by sections 123(1), 124(1)(e), 135(1), 136(2) to (4) and (5)(a) and (b), 137(1) and (2)(h) and 175(1) and (3) to (5) of the Social Security Contributions and Benefits Act 1992(1) and sections 4(5), 12(1), (2) and (4) (a) and (b), 13(3), 35(1), 36(2) and (4) and 40 of the Jobseekers Act 1995(2) and of all other powers enabling her in that behalf, after consultation with organisations appearing to her to be representative of the authorities concerned(3) and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(4), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income-related Benefits and Jobseeker's Allowance (Amendment) (No. 2) Regulations 1997 and, subject to paragraphs (2) to (4), shall come into force on 6th October 1997.

(2) In relation to a claimant for either income support or jobseeker's allowance, these Regulations shall have effect from the first day of the first benefit week to commence for that claimant on or after 6th October 1997.

(3) In paragraph (2) above, the expression "benefit week" shall have the same meaning as in regulation 2(1) of the Income Support Regulations(5) or, where appropriate, in regulation 1(3) of the Jobseeker's Allowance Regulations(6).

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- (1) 1992 c. 4; section 123(1)(e) and 131 were substituted and section 130 was amended to have effect with respect to council tax benefit by Schedule 9 to the Local Government Finance Act 1992 (c. 14); section 124(1)(e) was inserted by Schedule 2 paragraph 30(5) to the Jobseekers Act 1995 (c. 18) and section 137(1) is cited because of the meaning ascribed to the word "prescribed".
- (2) 1995 c. 18; section 35(1) is an interpretation provision and is cited because of the meanings ascribed to the words "prescribed" and "regulations".
- (3) See the Social Security Administration Act 1992 (c. 5), section 176(1).
- (4) See the Social Security Administration Act 1992, sections 170 and 173(1)(b) and the Jobseekers Allowance Act 1995 Schedule 2, paragraph 67(a).
- (5) The definition of "benefit week" was amended by S.I. 1988/1445.

(4) In so far as these Regulations amend provisions relating to disability working allowance or family credit, they shall come into force on 7th October 1997 and, in relation to any particular claimant for either of those benefits, these Regulations shall have effect where a claimant has an award of disability working allowance or family credit which is current on 7th October 1997, on the day following the expiration of that award.

(5) In these Regulations, unless the context otherwise requires—

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(7);

“the Disability Working Allowance Regulations” means the Disability Working Allowance (General) Regulations 1991(8);

“the Family Credit Regulations” means the Family Credit (General) Regulations 1987(9);

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(10);

“the Income Support Regulations” means the Income Support (General) Regulations 1987(11);

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(12).

Amendment of the Disability Working Allowance Regulations

2. After regulations 29(2)(c) (notional income) and 37(1)(b) and (2)(d) (notional capital) of the Disability Working Allowance Regulations the word “or” and the following sub-paragraph bearing the appropriate letter shall be inserted—

“any sum to which paragraph 45(a) or 46(a) of Schedule 4 (disregard of compensation for personal injuries which is administered by the Court)(13) refers,”.

Amendment of the Family Credit Regulations

3. After regulations 26(2)(c) (notional income) and 34(1)(b) and (2)(d) (notional capital) of the Family Credit Regulations(14) the word “or” and the following sub-paragraph bearing the appropriate letter shall be inserted—

“any sum to which paragraph 46(a) or 47(a) of Schedule 3 (disregard of compensation for personal injuries which is administered by the Court)(15) refers,”.

Amendment of the Housing Benefit Regulations

4. In sub-paragraph (d) of regulation 5(5) of the Housing Benefit Regulations (circumstances in which a person is or is not to be treated as occupying a dwelling as his home) for the words “his liability to make payments in respect of two dwellings is unavoidable” there shall be substituted the words “he could not reasonably have avoided liability in respect of two dwellings”.

(6) The definition of “benefit week” was amended by S.I. 1996/1517 and 2538.

(7) S.I. 1992/1814; relevant amending instrument S.I. 1994/2137.

(8) S.I. 1991/2887; relevant amending instruments S.I. 1992/2155, 1994/527 and 2139 and 1995/2303.

(9) S.I. 1987/1973; relevant amending instruments S.I. 1990/1774, 1994/2139 and 1995/2303.

(10) S.I. 1987/1971; relevant amending instruments S.I. 1993/317 and 1994/2137.

(11) S.I. 1987/1967; relevant amending instruments S.I. 1989/1678, 1990/1549, 1991/236, 1992/468, 3147, 1993/518, 1219, 1994/2139, 1995/516, 2303, 1996/204, 206, 462, 1944 and 1997/65.

(12) S.I. 1996/207.

(13) Paragraphs 45 and 46 were added by S.I. 1994/2139, regulation 10.

(14) Sub-paragraphs (a) to (c) were substituted in regulation 26(2) and sub-paragraph (d) was inserted in regulation 34(2) by S.I. 1995/2303, regulation 4.

(15) Paragraphs 46 and 47 were added by S.I. 1994/2139, regulation 21.

Amendment of the Income Support Regulations

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

(2) In regulation 4ZA (prescribed categories of person)(**16**) after paragraph (3) the following paragraph shall be added—

“(4) A person who falls within a prescribed category in Schedule 1B(**17**) for the purposes of this regulation for any day in a benefit week, shall fall within that category for the whole of that week.”.

(3) In regulation 40(3A) (calculation of income other than earnings)(**18**) for the word “week” there shall be substituted the words “benefit week”.

(4) After regulations 42(2)(h) (notional income)(**19**) and 51(1)(b) and (2)(d) (notional capital)(**20**) the word “or” and the following sub-paragraph bearing the appropriate letter shall be inserted—

“any sum to which paragraph 44(a) or 45(a) of Schedule 10 (disregard of compensation for personal injuries which is administered by the Court)(**21**) refers”.

(5) In regulation 61 (interpretation) in paragraph (c) of the definition of “grant income” for the words “paragraph 1, 2 or 7 of Schedule 1” there shall be substituted the words “paragraph 1, 2, 10, 11 or 12 of Schedule 1B”.

(6) In Part II of Schedule 4 (persons to whom regulation 19 does not apply) paragraphs 16 and 17 shall be omitted.

(7) In Schedule 7 (applicable amounts in special cases) in column 1 of paragraph 13A(2)(**22**) for the words from “which includes” to the end, there shall be substituted the words “which a claimant requires by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness.”.

Amendment of the Jobseeker’s Allowance Regulations

6. In the Jobseeker’s Allowance Regulations after regulations 105(2)(g) (notional income) and 113(1)(b) and (2)(d) (notional capital) the word “or” and the following sub-paragraph bearing the appropriate letter shall be inserted—

“any sum to which paragraph 42(a) or 43(a) of Schedule 8 (disregard of compensation for personal injuries which is administered by the Court) refers”.

Common amendments

7.—(1) After the regulations specified in paragraph (2) below the word “or” and the following sub-paragraph bearing the appropriate letter shall be inserted in each regulation—

“any sum to which paragraph 46(a) and 47(a) of Schedule 5 (disregard of compensation for personal injuries which is administered by the Court) refers”.

(2) The regulations to which paragraph (1) refers (which relate to notional income and notional capital) are—

(a) regulations 26(2)(c) and 34(2)(d)(**23**) of the Council Tax Benefit Regulations; and

(16) Regulation 4ZA was inserted by S.I. 1996/206, regulation 4.

(17) Schedule 1B was inserted by S.I. 1996/206, regulation 22.

(18) Paragraph (3A) was inserted by S.I. 1990/1549; relevant amending instruments S.I. 1991/236 and 1997/65.

(19) Sub-paragraph (h) was added by S.I. 1996/1944, Schedule.

(20) Sub-paragraph(d) was added by S.I. 1995/2303, regulation 6.

(21) Paragraphs 44 and 45 were added by S.I. 1994/2139, regulation 33 and are amended by regulation 7(9) and (10) of these Regulations.

(22) Paragraph 13A was inserted by S.I. 1989/1678, relevant amending instrument S.I. 1995/516 regulation 11.

(23) Paragraphs (2)(c) and (2)(d) were inserted by S.I. 1995/2303, regulation 2(5) and (6).

- (b) regulations 35(2)(c) and 43(2)(d)(**24**) of the Housing Benefit Regulations.
- (3) In each of the regulations specified in paragraph (4) below, after the words “Independent Living Funds” there shall be inserted the words “or payments made pursuant to section 19(1)(a) of the Coal Industry Act 1994(**25**) (concessionary coal)”.
- (4) The regulations to which paragraph (3) refers (which relate to notional income)(**26**) are—
- (a) regulation 26(3) of the Council Tax Benefit Regulations;
 - (b) regulation 29(3) of the Disability Working Allowance Regulations;
 - (c) regulation 26(3) of the Family Credit Regulations;
 - (d) regulation 35(3) of the Housing Benefit Regulations;
 - (e) regulation 42(4) of the Income Support Regulations; and
 - (f) regulation 105(10) of the Jobseeker’s Allowance Regulations.
- (5) In each of the provisions specified in paragraph (6) below for the words from “and is provided” to “required” there shall be substituted the words “by reason of old age, disablement, past or present dependence on alcohol or drugs, past or present mental disorder or a terminal illness and the care is provided in the home”.
- (6) The provisions to which paragraph (5) refers (which relate to the calculation of tariff income from capital and applicable amounts) are—
- (a) regulation 53(1B)(c) of, and paragraph 2A(2)(aa) of Schedule 2 to, the Income Support Regulations(**27**); and
 - (b) regulation 116(1B)(c) of, and paragraph 3(2)(b) of Schedule 1 to, the Jobseeker’s Allowance Regulations(**28**).
- (7) In each of the paragraphs of the Schedules specified in paragraph (8) below, at the end there shall be added the words “or section 12(2)(c) of the Further and Higher Education (Scotland) Act 1992(**29**) (provision of financial assistance to students)”.
- (8) The paragraphs of the Schedules to which paragraph (7) refers (which relate to the disregard of certain educational awards) are—
- (a) paragraph 10 of Schedule 4 to the Council Tax Benefit Regulations;
 - (b) paragraph 9 of Schedule 3 to the Disability Working Allowance Regulations;
 - (c) paragraph 9 of Schedule 2 to the Family Credit Regulations;
 - (d) paragraph 10 of Schedule 4 to the Housing Benefit Regulations;
 - (e) paragraph 11 of Schedule 9 to the Income Support Regulations; and
 - (f) paragraph 12 of Schedule 7 to the Jobseeker’s Allowance Regulations.
- (9) Each of the paragraphs of the Schedules specified in paragraph (10) below shall be amended in the following manner—
- (a) the words “under the age of 18” shall be omitted; and
 - (b) in sub-paragraph (b) at the end there shall be added the words “where the person concerned is under the age of 18”.

(24) Sub-paragraphs (2)(c) and (2)(d) were inserted by S.I. 1995/2303, regulation 5(2) and (7).

(25) 1994 c. 21.

(26) With respect to the regulations referred to in sub-paragraphs (a) to (e) the relevant amending instrument is S.I. 1993/963.

(27) Paragraph (1B) was inserted in regulation 53 by S.I. 1996/462, regulation 12; paragraph (2A) was inserted in Schedule 2 by S.I. 1992/3147, regulation 2; relevant amending instruments S.I. 1993/516 and 1219.

(28) Paragraph (1B) was inserted by S.I. 1996/1516, regulation 12.

(29) 1992 c. 37.

(10) The paragraphs of the Schedules to which paragraph (9) refers (which relate to the disregard of capital administered by a Court) are—

- (a) paragraphs 46 and 47 of Schedule 5 to the Council Tax Benefit Regulations⁽³⁰⁾;
- (b) paragraphs 45 and 46 of Schedule 4 to the Disability Working Allowance Regulations;
- (c) paragraphs 46 and 47 of Schedule 3 to the Family Credit Regulations;
- (d) paragraphs 46 and 47 of Schedule 5 to the Housing Benefit Regulations⁽³¹⁾;
- (e) paragraphs 44 and 45 of Schedule 10 to the Income Support Regulations⁽³²⁾; and
- (f) paragraphs 42 and 43 of Schedule 8 to the Jobseeker's Allowance Regulations.

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

9th September 1997

Keith Bradley
Parliamentary Under-Secretary of State,
Department of Social Security

⁽³⁰⁾ Paragraphs 46 and 47 were added by S.I. [1994/2137](#), regulation 29.

⁽³¹⁾ Paragraphs 46 and 47 were added by S.I. [1994/2137](#), regulation 13.

⁽³²⁾ Paragraphs 44 and 45 were added by S.I. [1994/2139](#), regulation 33.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Council Tax Benefit (General) Regulations 1992 (S.I. [1992/1814](#)), the Disability Working Allowance (General) Regulations 1991 (S.I. [1991/2887](#)), the Family Credit (General) Regulations (S.I. [1987/1973](#)), the Housing Benefit (General) Regulations 1987 (S.I. [1987/1971](#)), the Income Support (General) Regulations 1987 (S.I. [1987/1967](#)) and the Jobseeker's Allowance Regulations (S.I. [1996/207](#)).

With respect to housing benefit, provision is made for housing benefit to be payable in respect of two dwellings where a claimant could not reasonably have avoided his liabilities in respect of both of them (regulation 4).

With respect to income support, provision is made—

so that where a person is of a prescribed category for any day in a benefit week he shall fall in that category for the whole of that week (regulation 5(2));

to amend the reference to “week” in the calculation of income other than earnings to refer to “benefit week” (regulation 5(3));

to amend the definition of “grant income” and the apportionment of student loans in respect of benefit weeks in calculating income other than earnings (regulation 5(5));

to omit provisions in Schedule 4 which formerly had effect with respect to regulation 19 (applicable amounts for persons in residential care and nursing homes) (regulation 5(6));

to amend the definition of “personal care” as it has effect with respect to the applicable amounts of persons provided with accommodation under the [Polish Resettlement Act 1947 \(C.19\)](#) (regulation 5(7)).

With respect to income support and jobseeker's allowance, provision is made—

to amend the definition of “personal care” for the purpose of calculating a claimant's tariff income from capital and in the conditions in respect of a residential allowance (regulation 7(5) and (6)).

With respect to all the benefits, provision is made—

for excepting certain funds in Court from being treated as notional income or capital (regulations 2, 3, 5(4), 6, 7(1) and (2));

for excepting certain payments under the Coal Industry Act 1994 from being treated as notional income (regulation 7(3) and (4));

for extending the disregard of certain educational awards to children or young persons in Scotland when paid by the Board of Management of Colleges (regulation 7(7) and (8)); and

for extending the disregard of capital arising from compensation for personal injuries administered by the Court for persons aged under 18 to persons aged 18 and over (regulation 7(9) and (10)).

These Regulations do not impose a charge on businesses.