
STATUTORY INSTRUMENTS

2004 No. 2308

SOCIAL SECURITY

**The Social Security (Miscellaneous
Amendments) (No. 3) Regulations 2004**

Made - - - - *6th September 2004*
Laid before Parliament *13th September 2004*
Coming into force - - *4th October 2004*

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 123(1)(a), (d) and (e), 136(3), (5)(a) and (b), 137(1) and (2)(e) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992⁽¹⁾, sections 5(1)(h) and (i) and 5(2), and 6(1)(h) and (i) of the Social Security Administration Act 1992⁽²⁾, sections 12(1), (4)(a) and (b) and 35(1) and 36(2) and (4) of the Jobseekers Act 1995⁽³⁾ and all other powers enabling him in that behalf, after consultation in respect of provisions in these Regulations relating to housing benefit and council tax benefit with organisations appearing to him to be representative of the authorities concerned⁽⁴⁾, and after agreement by the Social Security Advisory Committee that proposals in respect of the Regulations should not be referred to it⁽⁵⁾, makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 3) Regulations 2004 and shall come into force on 4th October 2004.

(2) In these Regulations—

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992⁽⁶⁾;

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

“the Income Support Regulations” means the Income Support (General) Regulations 1987⁽⁸⁾;

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- (1) 1992 c. 4. Section 123(1)(e) was substituted by paragraph 1 of 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 given to the word “prescribed”.
- (2) 1995 c. 5.
- (3) 1995 c. 18. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”. Sections 35(1) and 36(4) were amended by section 2 of, and paragraph 62 and 63 respectively of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c. 2).
- (4) See section 176(1) of the Social Security Administration Act 1992 (c. 5).
- (5) See sections 170 and 173(1) of the Social Security Administration Act 1992; paragraph 67 of Schedule 2 to the Jobseekers Act 1995 added that Act to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee.
- (6) S.I. 1992/1814.
- (7) S.I. 1987/1971.
- (8) S.I. 1987/1967.

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996⁽⁹⁾.

Amendments relating to relevant payments

2.—(1) In each of the provisions specified in paragraph (2) (sums to be disregarded in the calculation of income other than earnings)—

- (a) after the words “household fuel,” insert “council tax, water charges,”;
- (b) omit the words “, or is used for any council tax or water charges for which that claimant or member is liable”.

(2) The provisions specified for the purposes of paragraph (1) are—

- (a) paragraph 15(2) of Schedule 9 to the Income Support Regulations⁽¹⁰⁾;
- (b) paragraph 15(2) of Schedule 7 to the Jobseeker’s Allowance Regulations.

(3) In paragraph 13(2) of Schedule 4 to the Housing Benefit Regulations (sums to be disregarded in the calculation of income other than earnings)⁽¹¹⁾—

- (a) after the words “household fuel” insert “, council tax, water charges”;
- (b) omit the words “or is used for any council tax or water charges for which that claimant or member is liable”.

(4) In paragraph 13(2) of Schedule 4 to the Council Tax Benefit Regulations (sums to be disregarded in the calculation of income other than earnings)⁽¹²⁾ omit the words “or is used for any council tax or water charges for which that claimant or member is liable”.

Amendments relating to the Skipton Fund

3.—(1) In each of the provisions specified in paragraph (2) (notional capital) for the words “or the Independent Living Funds” substitute “, the Independent Living Funds or the Skipton Fund”.

(2) The provisions specified for the purposes of paragraph (1) are—

- (a) regulation 51(3A)(a) of the Income Support Regulations⁽¹³⁾;
- (b) regulation 43(3A)(a) of the Housing Benefit Regulations⁽¹⁴⁾;
- (c) regulation 34(3A)(a) of the Council Tax Benefit Regulations⁽¹⁵⁾;
- (d) regulation 113(3A)(a) of the Jobseeker’s Allowance Regulations⁽¹⁶⁾.

(3) In each of the provisions specified in paragraph (4) (sums to be disregarded in the calculation of income other than earnings) for the words “and the Eileen Trust” substitute “, the Eileen Trust and the Skipton Fund”.

(4) The provisions specified for the purpose of paragraph (3) are—

- (a) paragraph 39(7) of Schedule 9 to the Income Support Regulations⁽¹⁷⁾;

⁽⁹⁾ S.I. 1996/207.

⁽¹⁰⁾ Paragraph 15 was substituted by S.I. 1990/547. The relevant amending instruments are S.I. 1990/1776, 1991/1559, 1992/3147, 1993/315, 1994/527, 2001/3767 and 2002/2442.

⁽¹¹⁾ Paragraph 13 was substituted by S.I. 1990/1775. The relevant amending instruments are S.I. 1991/1599, 1993/317 and 2002/2442.

⁽¹²⁾ The relevant amending instruments are S.I. 1993/688 and 2002/2442.

⁽¹³⁾ Paragraph (3A) was inserted by S.I. 1998/2117.

⁽¹⁴⁾ Paragraph (3A) was inserted by S.I. 1998/2164.

⁽¹⁵⁾ Paragraph (3A) was inserted by S.I. 1998/2164.

⁽¹⁶⁾ Paragraph (3A) was inserted by S.I. 1998/2117.

⁽¹⁷⁾ Paragraph 39 was inserted by S.I. 1988/663 and substituted by S.I. 1991/1175. The relevant amending instruments are S.I. 1992/1101 and 1993/1249.

- (b) paragraph 34(7) of Schedule 4 to the Housing Benefit Regulations(18);
 - (c) paragraph 35(7) of Schedule 4 to the Council Tax Benefit Regulations(19).
- (5) After paragraph 41(6) of Schedule 7 to the Jobseeker’s Allowance Regulations (sums to be disregarded in the calculation of income other than earnings) add—
- “(7) For the purposes of paragraphs (2) to (6), any reference to the Trusts shall be construed as including a reference to the Skipton Fund.”.
- (6) In each of the provisions specified in paragraph (7) (evidence and information) for the words “or the Eileen Trust” substitute “, the Eileen Trust or the Skipton Fund”.
- (7) The provisions specified for the purposes of paragraph (6) are—
- (a) regulation 73(3)(a)(ii) of the Housing Benefit Regulations(20);
 - (b) regulation 63(3)(a)(ii) of the Council Tax Benefit Regulations(21).

Amendments relating to special guardianship allowances

- 4.—(1) After sub-paragraph (c) in each of the provisions specified in paragraph (2) (sums to be disregarded in the calculation of income other than earnings) add—
- “(d) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services)(22);”.
- (2) The provisions specified for the purposes of paragraph (1) are—
- (a) paragraph 23(1) of Schedule 4 to the Housing Benefit Regulations(23);
 - (b) paragraph 24(1) of Schedule 4 to the Council Tax Benefit Regulations(24).
- (3) After sub-paragraph (d) in each of the provisions specified in paragraph (4) (sums to be disregarded in the calculation of income other than earnings) add—
- “(e) in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services);”.
- (4) The provisions specified for the purposes of paragraph (3) are—
- (a) paragraph 25(1) of Schedule 9 to the Income Support Regulations(25);
 - (b) paragraph 26(1) of Schedule 7 to the Jobseeker’s Allowance Regulations(26).
- (5) After paragraph 68 of Schedule 10 to the Income Support Regulations (capital to be disregarded)(27) insert—
- “**68A.** Any payment made to the claimant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).”.
- (6) After paragraphs 70 of Schedule 5 to each of the Housing Benefit Regulations and the Council Tax Benefit Regulations (capital to be disregarded)(28) insert—
- “**70A.** Any payment made to the claimant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).”.

(18) Paragraph 34 was inserted by S.I. 1988/661 and substituted by S.I. 1991/1175. The relevant amending instruments are S.I. 1992/1101 and 1993/1249.

(19) The relevant amending instrument is S.I. 1993/1249.

(20) Paragraph 3 was inserted by S.I. 1992/432 and amended by S.I. 1992/1101, 1992/2148, 1993/963 and 1993/1249.

(21) Paragraph 3 was amended by S.I. 1993/688, 1993/963 and 1993/1249.

(22) Section 14F of the Children Act 1989 (c. 41) is inserted by section 115 of the Adoption and Children Act 2002 (c. 38).

(23) The relevant amending instruments are S.I. 1992/432, 1998/563 and 2003/2279.

(24) The relevant amending instruments are S.I. 1998/563 and 2003/2279.

(25) The relevant amending instruments are S.I. 1992/468, 1998/563, 2003/455 and 2003/2279.

(26) The relevant amending instruments are S.I. 1998/563, 2003/455 and 2003/2279.

(27) Paragraph 68 was inserted by S.I. 2003/2279.

(28) Paragraph 70 was inserted into each set of regulations by S.I. 2003/2279.

(7) After paragraph 61 of Schedule 8 to the Jobseeker's Allowance Regulations (capital to be disregarded)(29) insert—

“**61A.** Any payment made to the claimant in accordance with regulations made pursuant to section 14F of the Children Act 1989 (special guardianship support services).”.

Further amendment of the Income Support Regulations

5.—(1) In regulation 12(2) of the Income Support Regulations(30) (relevant education)—

(a) in sub-paragraph (a) for the words “a higher national diploma or higher national certificate of either the Business & Technology Education Council or the Scottish Vocational Education Council” substitute “a higher national certificate”;

(b) for sub-paragraph (b) substitute—

“(b) any other course which is a course of a standard above advanced GNVQ or equivalent, including a course which is of a standard above a general certificate of education (advanced level) or a Scottish national qualification (higher or advanced higher).”.

(2) In regulation 42 of the Income Support Regulations (notional income)—

(a) in paragraph (6A)(c)(31) omit the words from “, but this sub-paragraph” to the end of the sub-paragraph;

(b) omit paragraphs (6B) and (6C).

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

6th September 2004

Chris Pond
Parliamentary Under Secretary of State,
Department for Work and Pensions

(29) Paragraph 61 was inserted by S.I. [2003/2279](#).

(30) The relevant amending instruments are S.I. [1990/547](#), [1992/2155](#) and [1993/2119](#).

(31) Paragraphs (6A) to (6C) were inserted by S.I. [1999/2554](#). The relevant amending instruments are S.I. [2000/678](#) and [2001/1029](#).

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) and the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) ("the income-related benefits regulations").

Regulation 2 amends the income disregard provisions of the income-related benefits regulations in relation to relevant payments so that relevant payments that are used for council tax or water charges will be disregarded to the extent of £20.

Regulation 3 provides an income disregard for payments which derive from Skipton Fund payments and it also excludes Skipton Fund payments from the notional capital rules (regulations 3(1)-(5)).

In relation to housing benefit and council tax benefit, regulations 3(6) and (7) provide that a person is not required to furnish any evidence and information about a Skipton Fund payment when making a claim or in connection with an award.

Regulation 4 introduces income and capital disregards for special guardianship payments.

The Income Support (General) Regulations 1987 (S.I. 1987/1967) are also further amended to—

- remove references to specific awarding bodies from the definition of "receiving advanced education" in regulation 12(2) (regulation 5(1));
- exclude lone parents, who participate in certain specified schemes, from the notional earnings rule (regulation 5(2)).

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.