

EXPLANATORY MEMORANDUM TO
THE INCOME-RELATED BENEFITS (AMENDMENT) REGULATIONS 2005

2005 No. 2183

1. This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

- 2.1 This is a package of amendments to the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971), the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814 and the State Pension Credit Regulations 2002 (S.I. 2002/1792).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The regulations are subject to the negative process.
- 3.2 The 21 day rule has been breached. This is because of the exceptional circumstances giving rise to the amendments, namely the terrorist attacks of the 7th July 2005 and the subsequent setting up of the London Bombings Relief Charitable Fund to make interim assistance grants to the victims of the attacks. The grants are already being made because they are for immediate need. It is the possible effect of these interim grants on benefit which is currently in payment which requires immediate legislation.
- 3.3 In view of the urgent nature of the amending legislation consultation with the Social Security Advisory Committee and the Local Authorities has been foregone in accordance with sections 173(1)(a) and 176(2)(a) of the Social Security Administration Act 1992. The Secretary of State will however be submitting the Regulations to those advisory bodies as soon as practicable after they have been made.
- 3.4 The amendment being made in respect of Pension Credit differs from that for the other benefits, in that there is no reference to any disregard in respect of injury suffered by the claimant. This is because any payment received for personal injury by the recipients of Pension Credit is already wholly disregarded under existing legislation. Thus the disregard needs only to apply to payment following death.

4. Legislative Background

- 4.1 The amendments provide that interim grants from the London Bombings Relief Charitable Fund set up in the wake of the bombings in London on 7th July 2005, are to be disregarded in full.
- 4.2 The purpose of the instrument is to amend the legislation described in paragraph 2 above to provide that any grant payable from the Fund to anyone in receipt of Income Support, Jobseeker's Allowance, Housing Benefit, Council Tax Benefit or Pension Credit is disregarded in full.

5. Extent

- 5.1 This instrument applies to Great Britain.
- 5.2 The Department for Social Development in Northern Ireland will be making Regulations for Northern Ireland that mirror these amendments.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- 7.1 The current policy in relation to charitable payments in respect of Income Support, Jobseeker's Allowance, Housing benefit and Council Tax Benefit is that, unless the payment is in kind or from a prescribed Fund or Trust, any payment from a charitable fund is treated as capital and taken into account in full for the benefits mentioned in paragraph 2 above. This could result in weekly benefit being reduced according to a sliding scale if the individual possesses capital between certain specified amounts – a reduction known as tariff income (for Pension Credit this is known as 'deemed income from capital'). If the upper limit for the possession of capital is breached it would mean a loss of entitlement altogether.
- 7.2 In this instrument each amendment relates directly to the capital rules for the payment of benefit.¹
- 7.3 The policy in relation to any grant from the London Bombings Relief Charitable Fund is that it should be disregarded in full so that existing benefit payment is not affected at all. It will be a blanket disregard; recipients will not have to meet any conditions. (The disregard will continue to apply if following the ending of the current benefit award a further claim is made which is

¹ For Income Support and Jobseeker's Allowance for anyone under/60 the lower limit is £3000 the upper limit is £8000; if over 60 they are £6000 and £12,000. Benefit is not paid if capital is over the upper limit. Between the limits benefit is reduced by £1 for every £250 or part thereof of capital above the lower limit – known as tariff income. For Housing Benefit/Council Tax Benefit the limits are £3,000 and £16,000; tariff income rules apply. For Pension Credit the lower limit is £6000 there is no upper limit; deemed income rules apply for every £500 or part thereof above the lower limit.

continuous with the previous award. It will not apply where benefit is awarded only subsequent to the receipt of the grant.)

- 7.4 It applies to the benefit recipient who was injured in the attacks; and to the partner or close relative of a person who died in, or as a result of the attacks.
- 7.5 The initial grants are termed interim assistance grants. The trustees of the Fund are considering the extent of, and the circumstances in which, further payments may be made. The policy in relation to these will be decided once the details are known.
- 7.6 As explained at paragraph 3 above the normal consultation processes have been waived. There has been no other consultation.

8. Regulatory Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The Regulations have been considered necessary so that an appropriate response can be made to decisions taken within the public sector. There is no corresponding impact on the public sector as a result of this legislation.

9. Contact

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can answer any queries regarding the instrument.