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STATUTORY INSTRUMENTS

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**2008 No. 1596**

**The Social Security (Recovery of Benefits)  
(Lump Sum Payments) Regulations 2008**

**PART 1**

**General**

**Citation, commencement and interpretation**

**1.—(1)** These Regulations may be cited as the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 and shall come into force on 1st October 2008.

**(2)** In these Regulations—

“the Act” means the Social Security (Recovery of Benefits) Act 1997;

“compensator” means a person making a compensation payment;

“Compensation Recovery Unit” means the Compensation Recovery Unit of the Department for Work and Pensions at Durham House, Washington, Tyne and Wear, NE38 7SF;

“lump sum payments” are payments to which section 1A(2) of the Act applies, except in relation to regulation 18(1)(b);

“recoverable benefits” has the same meaning as in section 1(4)(c) of the Act;

“recoverable lump sum payments” means any lump sum payments which are recoverable by virtue of regulation 4.

**Application of the Act**

**2.—(1)** The provisions of the Act specified in paragraph (2) apply for the purposes of these Regulations with the modifications, where appropriate, prescribed in Schedule 1.

**(2)** The specified provisions are—

(a) section 1(3) (cases in which this Act applies);

(b) sections 10 to 14 (reviews and appeals);

(c) sections 15 and 17 (courts);

(d) sections 18 and 19 (reduction of compensation: complex cases);

(e) sections 20 to 23 (miscellaneous);

(f) sections 26 and 27 (provisions relating to Northern Ireland);

(g) sections 28 to 31 (general);

(h) section 33 (consequential amendments and repeals);

(i) section 34(1) and (3) (short title and extent);

(j) Schedule 1 (compensation payments – exempted payments and power to disregard small payments).

### **Consequential amendments**

3. The consequential amendments set out in Schedule 2 apply for the purposes of these Regulations.

### **Recovery of lump sum payments**

4.—(1) The Secretary of State may recover the amount of a payment to which section 1A(2) of the Act applies (“a lump sum payment”) where—

(a) a compensation payment in consequence of a disease is made to or in respect of—

(i) a person (“P”); or

(ii) a dependant of P,

to whom, or in respect of whom, a lump sum payment has been, or is likely to be, made; and

(b) the compensation payment is made in consequence of the same disease as the lump sum payment.

(2) In paragraph (1), references to a payment made in consequence of a disease—

(a) are references to a payment made by or on behalf of a person who is, or is alleged to be, liable to any extent in respect of the disease; but

(b) do not include references to a payment mentioned in Part 1 of Schedule 1 to the Act.

### **Application of these Regulations to a dependant of P**

5.—(1) Subject to paragraph (2), in these Regulations and any provision of the Act as modified any reference to P is to be construed as if it included a reference to a dependant of P where that dependant is the person to whom, or in respect of whom, a lump sum payment is made.

(2) Paragraph (1) does not apply in relation to regulations 4, 10(7) and 12(7) and sections 15 and 23(2) of, and paragraphs 3(a) and 5(1) of Part 1 of Schedule 1 to, the Act.

### **Compensation payments to which these Regulations apply**

6. These Regulations apply in relation to compensation payments made on or after the day on which section 54 of the Child Maintenance and Other Payments Act 2008 comes into force.

### **Exempted trusts and payments**

7.—(1) The following trusts are prescribed for the purposes of paragraph 4 of Schedule 1 to the Act—

(a) the Macfarlane Trust established on 10th March 1988 partly out of funds provided by the Secretary of State to the Haemophilia Society for the relief of poverty or distress among those suffering from haemophilia;

(b) the Macfarlane (Special Payments) Trust established on 29th January 1990 partly out of funds provided by the Secretary of State, for the benefit of certain persons suffering from haemophilia;

(c) the Macfarlane (Special Payments) (No. 2) Trust 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;

(d) the Eileen Trust established on 29th March 1993 out of funds provided by the Secretary of State, for the benefit of persons eligible for payment in accordance with its provisions;

- (e) a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for interim payments in accordance with its provisions;
  - (f) a trust established out of funds provided by the Secretary of State in respect of persons who suffered, or who are suffering, from variant Creutzfeldt-Jakob disease for the benefit of persons eligible for payments, other than interim payments, in accordance with its provisions.
- (2) The following payments are prescribed for the purposes of paragraph 8 of Schedule 1 to the Act—
- (a) any payment made under the Vaccine Damage Payments Act 1979<sup>(1)</sup> to or in respect of P;
  - (b) any award of compensation made to or in respect of P under the Criminal Injuries Compensation Act 1995<sup>(2)</sup> or by the Criminal Injuries Compensation Board under the Criminal Injuries Compensation Scheme 1990 or any earlier scheme or under the Criminal Injuries Compensation (Northern Ireland) Order 2002<sup>(3)</sup>;
  - (c) any payment made to P in respect of sensorineural hearing loss where the loss is less than 50 decibels in one or both ears;
  - (d) any contractual amount paid to P by an employer of P in respect of a period of incapacity for work;
  - (e) any payment made under the National Health Service (Injury Benefits) Regulations 1995<sup>(4)</sup>, the National Health Service (Scotland) (Injury Benefits) Regulations 1998<sup>(5)</sup> or the Health and Personal Social Services (Injury Benefits) Regulations (Northern Ireland) 2001<sup>(6)</sup>;
  - (f) any payment made by or on behalf of the Secretary of State for the benefit of persons eligible for payment in accordance with the provisions of a scheme established by the Secretary of State on 24th April 1992 or, in Scotland, on 10th April 1992;
  - (g) any payment made from the Skipton Fund, the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme's provisions;
  - (h) any payment made from the London Bombings Relief Charitable Fund, the company limited by guarantee (number 5505072) and registered charity of that name established on 11th July 2005 for the purpose of (amongst other things) relieving sickness, disability or financial need of victims (including families or dependants of victims) of the terrorist attacks carried out in London on 7th July 2005.

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(1) 1979 c.17.

(2) 1995 c. 53.

(3) S.I. 2002/796 (N.I. 1).

(4) S.I. 1995/866.

(5) S.I. 1998/1594 (S. 84).

(6) S.R. 2001 No. 367.