

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY (STUDENTS AND MISCELLANEOUS AMENDMENTS)**  
**REGULATIONS 2008**

**2008 No. 1599**

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

**2. Description**

2.1 These Regulations make a number of amendments to the income-related benefit regulations and the Claims and Payments Regulations to

- (i) increase the amount of the disregards from student loan or personal maintenance grant income in respect of travel, books and equipment.
- (ii) clarify how student loans paid other than at quarterly intervals are to be taken into account when a student abandons or is dismissed from their course.
- (iii) allow the Secretary of State discretion in relation to the information, evidence or documents which state pension credit customers may be asked to provide in connection with the setting of a new assessed income period.

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

3.1 None.

**4. Legislative Background**

4.1 Each year at the beginning of August, in time for the start of the academic year in Scotland, the income-related benefit Regulations are amended to take account of changes to the student support system and, in particular, increase the amounts to be disregarded for books, equipment and travel costs in assessing income from student loans or personal maintenance grants.

4.2 In relation to the state pension credit amendments these Regulations amend regulation 32(6) of the Social Security (Claims and Payments) Regulations 1987 so as to allow new assessed income periods to be set automatically in certain cases, without the need for those customers to first complete a “postal review” form.

**5. Extent**

5.1 The Statutory Instrument applies to Great Britain. Equivalent provision will be made for Northern Ireland by statutory rules

**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

### Changes to student support

- 7.1 Most full-time students are not eligible to claim any of the income-related benefits (Income Support, income-based Jobseeker's Allowance, Housing Benefit and Council Tax Benefit, an income-related Employment and Support Allowance). This is because primary financial support for students comes from the educational maintenance system, which is designed for their needs. However, exceptions are made, for students who fall into certain "vulnerable groups" (in the main, lone parents, student couples with children or students with disabilities). For those students who are entitled, there are specific regulations governing the treatment of their income.
- 7.2 This instrument is being made to give effect to the annual uprating of income-related benefit disregards in respect of student course-related expenses. The disregard for books & equipment is calculated by increasing last year's figure in line with the increase in student support rates (2.5% for the 2008/09 academic year) and rises to £380 a year. The travel disregard reflects the amount specified in student support legislation above which students can get a specific grant, which for the 2008/09 academic year is £295.
- 7.3 This instrument also clarifies how student loans that are paid other than at quarterly intervals are to be taken into account when a student abandons or is dismissed from their course.

### Changes in relation to state pension credit

- 7.4 State pension credit is an income related benefit which replaced the Minimum Income Guarantee for pensioners in 2003. Entitlement to state pension credit and the amount payable is calculated with reference to a person's income and savings. State pension credit introduced the concept of the assessed income period. This is a period (usually 5 years, although for awards made from 5th October 2003, provision existed to set assessed income periods for between 5 and 7 years) during which state pension credit customers are not required to report to certain types of income, such as private or occupational pensions, income from annuities and changes to their capital (these types of income are referred to as a persons "retirement provision"). Assessed income periods are set where the state pension credit customer or their partner is aged 65 or over, although in prescribed circumstances the Secretary of State may be prevented from setting one.
- 7.5 At the end of an assessed income period, the intention is for consideration to be given to setting a further assessed income period. In order to do so, the Secretary of State initiates a "review" of the claimant's circumstances in order to establish their current income and capital (as there may have been changes in the past 5 years), by requesting that customers provide information about their income and other circumstances. It is estimated that the Pension, Disability and Carers Service would be required to contact around 1.1 million customers to obtain these details in the 2 years from October 2008.
- 7.6 In order to reduce the number of contacts with customers, and reduce the need for potentially unnecessary questioning, the Pension, Disability and Carers Service considered whether it may be possible to automate the process for reviewing circumstances and re setting assessed income periods for customers who would be unlikely to have had any changes in their circumstances. Using risk profiling techniques, certain "low risk" categories of customers were identified, for whom it was predicted

there would be little likelihood of changes to their income or savings during the assessed income period. A feasibility study in autumn 2007 tested and confirmed this assumption.

7.7 An automated process has now been devised whereby some 650,000 customers who are unlikely to have had changes to their retirement income will automatically have their assessed income periods re set. These customers will not be issued a form to complete, or be telephoned by the Department, and will therefore not be required to answer unnecessary questions. Instead, they will be identified electronically by means of a scan of the existing caseload, and automatically issued with a notification explaining that they have been set a new assessed income period and setting out the information on which their award of state pension credit is based. They will be advised to only contact the Department if any of this information is wrong.

7.8 In order to put this process on a legal footing, a change to regulations would be necessary to ensure that the Secretary of State has discretion about whether to seek information and evidence from customers in connection with the setting of an assessed income period. Regulation 2 of this SI amends Regulation 32(6) of the Social Security (Claims and Payments) Regulations 1987 to this effect.

#### *Consultation*

7.9 The Social Security Advisory Committee has agreed that the Regulations should not be referred for formal consultation. The Local Authority Associations, the National Union of Students and the National Association of Student Monetary Advisors (the "NASMA") were also consulted. No issues were raised.

#### *Guidance*

7.10 Guidance will be developed and delivered for Jobcentre Plus, and Pensions, Disability and Carers Service operational staff and Decision Makers so they are aware of the regulatory changes and new process. The changes do not introduce additional complexity to the benefit system.

#### *Consolidation*

7.11 Informal consolidation of this instrument will be included in due course in the Department's "the law relating to Social Security" (the Blue Volumes) which are available at no cost to the public on the internet at: <http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/>. It is also the Department's intention to consolidate the Claims and Payments Regulations after the changes consequential upon the introduction of Employment and Support Allowance have been made.

## **8. Impact**

8.1 A full impact assessment has not been published for this instrument as it has no impact on the private or voluntary sectors.

8.2 There is negligible impact on the public sector as there are no costs associated with the changes in relation to student support. The change in relation to state pension credit reduces administration for the public sector.

## 9. Contact

Any queries regarding this instrument should be directed to the following:

Gail Davies at the Department for Work and Pensions (Tel: 0114 240 8631); e-mail [gail.davies4@jobcentreplus.gsi.gov.uk](mailto:gail.davies4@jobcentreplus.gsi.gov.uk) can answer queries regarding the amendments to the IRB regulations.

Paul Needham at the Department for Work and Pensions (Tel 0113 2324949); e-mail [paul.needham@dpw.gsi.gov.uk](mailto:paul.needham@dpw.gsi.gov.uk) can answer queries regarding the amendments to the Claims and Payments Regulations.