

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (STUDENTS AND MISCELLANEOUS AMENDMENTS)
REGULATIONS 2009**

2009 No. 1575

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

2. **Purpose of the instrument**

Students

2.1 These Regulations make amendments to the income-related benefit Regulations to increase the amount of the disregards from student loan or personal maintenance grant income in respect of travel, books and equipment.

Jobseekers Allowance

2.2 They also amend schedule 1 to the Jobseeker's Allowance regulations regarding the amount payable to couples with one member age 18 or over and the other member under 18.

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

3.1 None

4. **Legislative Context**

Students

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.

Jobseekers Allowance

4.2 Most young people under age 18 are not entitled to income-based Jobseeker's Allowance on the grounds of age. However, Jobseeker's Allowance is available to some young people if they are in hardship or they are in specific circumstances listed in the Jobseeker's Allowance legislation.

4.3 The Jobseeker's Allowance regulations prescribe the amounts of benefit payable. The amount paid to couples may vary depending on their ages and circumstances. For example, for a couple with both members under age 18 who are both awarded a severe hardship direction, the weekly amount is £76.90. But when

one member of the same couple becomes 18, under current legislation we can only pay the couple a weekly amount of £50.95, the equivalent to the rate that we would pay a single person.

4.4 At the moment, in order for the couple to receive the weekly rate applicable to a couple with both members age 18 or over (currently £100.95 per week) the member who is under age 18 would need to either:

i fall into specific circumstances listed in the Jobseeker's Allowance regulations

or

ii be the subject of a severe hardship direction. The direction, awarded according to an individual's circumstances, is to pay Jobseeker's Allowance for a specified period as otherwise the person under 18 would suffer financial hardship.

and

iii satisfy the conditions for being entitled to Income Support, other than a requirement to make a claim for it.

4.5 In comparison, if the same couple were to claim Income Support or Employment and Support Allowance, under the current rules the member under age 18 would need to meet only one of these conditions to be paid the couple rate (£100.95) per week.

4.6 These amending regulations remove this disparity between Jobseeker's Allowance and Income Support and Employment and Support Allowance. They ensure that a couple with one member aged 18 or over and one under 18 will receive the same weekly rate of benefit when they claim Jobseeker's Allowance as they would if they claimed Income Support or Employment and Support Allowance.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

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

- *What is being done and why*

Students

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 (2.6% for the 2009/10 academic year) and rises to £390 a year. The travel disregard reflects the amount specified in student support legislation above which students can get a specific grant, which for the 2009/10 academic year is £303.

Jobseekers Allowance

7.3 Income-based Jobseeker’s Allowance is not usually available to those people under age 18 as other benefits are available to support them through education or training. There are a number of exceptions for vulnerable young people who are in specific circumstances, for example laid-off from employment, or waiting to join the armed forces, or are the subject of a severe hardship direction.

7.4 The weekly amounts payable to couples with one member aged 18 or over and the other under age 18 are set out in legislation. Both IS and JSA legislation sets out the 3 conditions which the member under age 18 must meet in order for the couple to receive the “higher” weekly amount of benefit, normally payable only to couples with both members age 18 or over. In the IS legislation the member under age 18 must meet only one of these conditions whereas in the corresponding JSA legislation the under 18 must meet either the first condition or both the other two.

7.5 This instrument is being made to remove the current discriminatory element within JSA regulations so that couples with one member aged 18 or over and the other under age 18 are treated no less favourably than couples in the same circumstances

- ***Consolidation***

7.6 Though there are no plans to immediately consolidate these Regulations. The public will have access to this information at no cost through the Internet (http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/pdf/c_0031.pdf and also at www.opsi.gov.uk). The Regulations will also be published in the Department’s Blue Volumes.

8. Consultation outcome

8.1 The proposed regulations were scrutinised by the Social Security Advisory Committee under the provisions of s.173 of the Social Security Administration Act. The Committee decided that it did not require the regulations to be formally referred to it for the preparation of a report to the Secretary of State for Work and Pensions and, accordingly, it did not conduct a public consultation exercise upon the proposals.

8.2 The Department has also consulted representatives of the Local Authority Associations, the National Union of Students and the National Association of Student Monetary Advisors (the “NASMA”) under the provisions of s.176 of the Social Security Administration Act 1992. The appropriate consultation period was met. No negative responses were received.

9. Guidance

9.1 Guidance will be developed and delivered for Jobcentre Plus operational staff and Decision Makers so they are aware of the regulatory changes. The change does not introduce additional complexity to the benefit system.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is negligible.

10.3 A full impact assessment has not been published for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 There are no plans to monitor the impact of this instrument. The legislation is reviewed on an annual basis.

13. Contact

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