

**EXPLANATORY MEMORANDUM TO**  
**THE SOCIAL SECURITY BENEFIT (COMPUTATION OF EARNINGS)**  
**(AMENDMENT) REGULATIONS**

**2009 No. 2678**

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. Purpose of the instrument**

2.1 These regulations modify the Social Security Benefit (Computation of Earnings) Regulations 1996 and their purpose is to:

- Completely disregard expenses paid to service users. Service users are those people who are consulted by public authorities, including local authorities, as part of a statutory requirement, about the way their services are designed, delivered and monitored;
- Align the definition of “royalties”, including payments received for design, patent and trade mark rights, with the definition in the income-related benefits<sup>1</sup>;

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

3.1 None.

**4. Legislative Context**

4.1 This instrument will amend the Computation of Earnings Regulations. These Regulations provide a framework for the way that earnings of employed earners and self employed earners are calculated for certain contributory and non-contributory benefits, ie, in Incapacity Benefit, Severe Disablement Allowance, Carer's Allowance and Industrial Injuries Unemployability Supplement; in State Pension (as far as Adult and Child Dependency Increases are concerned); and in Maternity Allowance (as far as Adult Dependency Increases are concerned).

Service Users

4.2 These amendments will allow us to disregard any expenses paid to service users who are also paid for time spent while part of a service user group. This applies where they are consulted by a local authority or public authority, in both cases, where there is a legal requirement to do so, about the way that services are designed, delivered and monitored.

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<sup>1</sup> Income Support, Jobseeker's Allowance, State Pension Credit, Employment and Support Allowance, Housing Benefit and Council Tax Benefit.

## Royalties

4.3 All of the income-related benefits specify how payments of “royalties” should be calculated in deciding benefit entitlement. The royalties provisions were last amended in April 2009 in order to fully align the treatment of those payments across the income-related benefits. So as well as referring to payments for copyright, they now include specific reference to design, patent and trademark rights; and to Public Lending Right payments including, where appropriate, those received from abroad.

4.4 The Computation of Earnings Regulations presently only refer to royalties and payments in respect of any copyright. These provisions are therefore being amended in order to align with the updated references which were introduced across the income-related benefit regulations in April 2009.

## **5. Territorial Extent and Application**

5.1 This instrument applies to Great Britain.

## **6. European Convention on Human Rights**

6.1 As this 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***

### Service Users

7.1 The changes being introduced by this instrument are intended to remove barriers within the benefits system that might prevent people carrying out the service user role. At present people can be deterred from participating in service user activity because the receipt of any expenses they are paid or reimbursed as a result of their involvement could reduce the amount of benefit they are entitled to.

7.2 Currently expenses paid to a service user who is also being paid for their involvement would be treated as part of their earnings (with some exceptions where those expenses are directly related to the work they are doing). In practice, this means that, for example, the cost of travel to meetings, and the expenses of carers or support workers may be taken into account and benefit reduced accordingly. People who are paid expenses only are generally treated as volunteers and all reasonable expenses can be disregarded.

7.3 We believe that given the special nature of the service user role it would be reasonable to ignore for benefit purposes any expenses paid to them in the same way as we do for volunteers. To consult with and involve people in the way that public services are delivered in this way is very much part of the Government’s approach to public sector reform.

*Who will these changes apply to?*

7.4 This would apply, where appropriate, to a service user who is consulted as part of a service user group and who is claiming benefits (or who is a spouse, partner or other adult where a claim for an increase in benefit is made). The changes that we are making will be particularly helpful to disabled people who may have additional expenses arising from their disability – for example, someone to read papers to a blind person prior to a meeting or the cost of a carer to accompany and assist them at a Service User event. The disregard of these expenses will apply where the consultation is undertaken by the public, rather than the private, sector, to enable us to monitor and evaluate the impact of this change.

*Volumes*

7.5 Unfortunately we have no authoritative source of data as to the numbers of customers who take part in service user activity as DWP computer systems do not capture this data. Similarly there is no central authority that collates the number of people who participate in service user activity across the range of public authorities involved.

Royalties

7.6 These regulations align the references to “royalties” in the Computation of Earnings regulations with the updated references in the income-related benefits by including specific reference to design, patent and trademark rights; and to Public Lending Right payments including, where appropriate, those received from abroad.

7.7 This means that "royalties" payments will now cover:

- (i) payments consisting of royalties or other sums received as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark where these payments are made to the original owner; and
- (ii) any payment made where the claimant (or spouse, partner, or other adult where a claim for an increase in benefit is made) is an original contributor to a book registered under the Public Lending Right Scheme 1982 or to a work under an analogous international Public Lending Right Scheme.

- **Consolidation**

7.8 Changes will be consolidated into the ‘Law Relating to Social Security’ volumes available via [www.dwp.gov.uk/advisers](http://www.dwp.gov.uk/advisers)

## **8 Consultation outcome**

## Service Users

8.1 The Department for Work and Pensions has engaged with a range of external stakeholders involving bodies who deal directly with people who take part in service user consultations. These include the Social Care Institute for Excellence, the Commission for Social Care Inspection, the Department of Health (which oversees consultative involvement within NHS Trusts, Primary Care Trusts, and Local Involvement Networks) and the Tenant Services Authority. This proposal has been warmly welcomed, although some have questioned the fact that it will only apply to service user activity in the public sector. The Department will evaluate the impact of this change before taking a view as to whether it should be extended beyond those service users who are engaged by public bodies.

8.2 The Department for Work and Pensions has also notified and discussed this change with its own Policy and Strategy Forum. This forum is made up of its external stakeholders.

## Royalties

8.3 As the changes being made here solely represent a tidying up and alignment with existing provision no formal consultation was undertaken.

## **9 Guidance**

9.1 Guidance on the changes to regulations will be issued to Jobcentre Plus and Pension, Disability and Carers Service Decision Makers and to Local Authorities who administer Housing Benefit and Council Tax Benefit. The Department intends to publicise the changes being made in respect of service users.

9.2 Guidance in draft form has been sent to the Social Care Institute for Excellence and the Commission for Social Care Inspection.

## **10 Impact**

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is negligible. These changes will be absorbed into existing resources within the Department for Work and Pensions.

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

## **11 Regulating small business**

11.1 The legislation does not apply to small business.

## **12 Monitoring and Review**

12.1 The Department will monitor and evaluate the effectiveness of these changes through performance data and customer feedback.

### **13 Contact**

13.1 Frank Spiers at the Department for Work and Pensions (Tel: 020 7 449 5252) or email: [frank.spiers@dwp.gsi.gov.uk](mailto:frank.spiers@dwp.gsi.gov.uk) can provide more information or clarification if required.