
STATUTORY INSTRUMENTS

1996 No. 940

SOCIAL SECURITY

**The Social Security Benefits (Maintenance Payments
and Consequential Amendments) Regulations 1996**

<i>Made</i>	- - - -	<i>27th March 1996</i>
<i>Laid before Parliament</i>		<i>1st April 1996</i>
<i>Coming into force</i>	- -	<i>19th April 1996</i>

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 74A(5) and (6), 189(1) and (3) to (5) and 191 of the Social Security Administration Act 1992^{M1}, sections 136(5)(b), 137(1) and 175(1) to (4) of the Social Security Contributions and Benefits Act 1992^{M2}, and of all other powers enabling him in that behalf, by this instrument which contains only regulations made by virtue of, or consequential upon, section 74A of the Social Security Administration Act 1992, and is made before the end of the period of 6 months beginning with the coming into force of that section^{M3}, hereby makes the following Regulations:

Modifications etc. (not altering text)

- C1** Instrument applied (with modifications) (1.10.2010) by [Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No.2\) Regulations 2010 \(S.I. 2010/1907\)](#), regs. 1(2), **16(2)(e)(iii)**, 16(3) (with reg. 3)

Marginal Citations

- M1** 1992 c.5; section 74A was inserted by section 25 of the [Child Support Act 1995 \(c.34\)](#); section 191 is an interpretation provision and is cited because of the meaning assigned to the word "prescribe".
- M2** 1992 c.4; section 137(1) is an interpretation provision and is cited because of the meaning assigned to the word "prescribed".
- M3** See section 173(5)(b) of the Social Security Administration Act 1992.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security Benefits (Maintenance Payments and Consequential Amendments) Regulations 1996 and shall come into force on 19th April 1996.

(2) In these Regulations—

“the Act” means the Social Security Administration Act 1992;

[^{F1}“the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;]

“the Income Support Regulations” means the Income Support (General) Regulations 1987 ^{M4};

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996 ^{M5}.

Textual Amendments

F1 Words in reg. 1 inserted (27.10.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **59(2)**

Marginal Citations

M4 S.I. 1987/1967.

M5 S.I. 1996/207.

Interpretation for the purposes of section 74A of the Act

2. In section 74A of the Act (payment of benefit where maintenance payments collected by Secretary of State)—

(a) “child maintenance” means any payment towards the maintenance of a child or young person, including payments made—

(i) under a court order;

(ii) under a maintenance [^{F2}calculation] made under the Child Support Act 1991 ^{M6};

(iii) under an agreement for maintenance; or

(iv) voluntarily,

and for this purpose a “young person” is a person referred to in regulation 3 of these Regulations (persons of a prescribed description);

(b) “spousal maintenance” means any payment made by a person towards the maintenance of that person’s spouse [^{F3}or civil partner], including payments made—

(i) under a court order;

(ii) under an agreement for maintenance; or

(iii) voluntarily;

(c) “relevant income” means—

(i) any income which is taken into account under Part V of the Income Support Regulations for the purposes of calculating the amount of income support to which the claimant is entitled; or

(ii) any income which is taken into account under Part VIII of the Jobseeker’s Allowance Regulations for the purposes of calculating the amount of jobseeker’s allowance to which the claimant is entitled [^{F4}]; or

(iii) any income which is taken into account under Part 10 of the Employment and Support Allowance Regulations for the purposes of calculating the amount of employment and support allowance to which the claimant is entitled.]

Textual Amendments

F2 Word in reg. 8 substituted (3.3.03) by S.I. 2001/158, regs. 1(3), 8

- F3** Words in reg. 2(b) inserted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 3 para. 27** (with art. 3)
- F4** Reg. 2(c)(iii) added (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **59(3)**

Marginal Citations

- M6** 1991 c.48.

Persons of a prescribed description

3. For the purposes of the definition of “family” in section 74A(5) of the Act, a person of a prescribed description is any person who—

- (a) is referred to as a “young person” in the Income Support Regulations by virtue of regulation 14 of those Regulations^{M7}; or
- (b) is referred to as a “young person” in the Jobseeker’s Allowance Regulations by virtue of regulation 76 of those Regulations^{F5}; or
- (c) is referred to as a “young person” in the Employment and Support Allowance Regulations by virtue of regulation 2(1) of those Regulations.]

Textual Amendments

- F5** Reg. 3(c) added (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **59(4)**

Marginal Citations

- M7** Relevant amending instruments are [S.I. 1988/1445](#) and [1990/547](#).

Circumstances in which a person is to be treated as responsible for another

4. A person shall be treated as responsible for another for the purposes of section 74A of the Act if he is treated as responsible for that other person under either regulation 15 of the Income Support Regulations^{M8} or regulation 77 of the Jobseeker’s Allowance Regulations.

Marginal Citations

- M8** Relevant amending instruments is [S.I. 1993/2119](#).

Circumstances in which persons are to be treated as being members of the same household

5. Persons shall be treated as members of the same household for the purposes of section 74A of the Act if they are treated as members of the same household under^{F6}... regulation 16 of the Income Support Regulations^{M9} or regulation 78 of the Jobseeker’s Allowance Regulations [^{F7}or regulation 156 of the Employment and Support Allowance Regulations].

Textual Amendments

- F6** Word in reg. 5 omitted (27.10.2008) by virtue of [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **59(5)(a)**

F7 Words in reg. 5 inserted (27.10.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **59(5)(b)**

Marginal Citations

M9 Relevant amending instruments are [S.I. 1988/663](#), 1989/534, 1990/547, 1992/468 and 3147, and 1993/2119.

Amendment of the Income Support Regulations

6.—(1) The Income Support Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 55 (treatment of liable relative payments) at the beginning there shall be inserted the words “Subject to regulation 55A and”.

(3) After regulation 55 there shall be inserted the following regulation—

“ Disregard of payments treated as not relevant income

55A. Where the Secretary of State treats any payment as not being relevant income for the purposes of section 74A of the Social Security Administration Act 1992 (payment of benefit where maintenance payments collected by Secretary of State), that payment shall be disregarded in calculating a claimant’s income.”.

(4) In regulation 60B (treatment of child support maintenance) ^{M10} at the beginning there shall be inserted the words “Subject to regulation 60E,”.

(5) After regulation 60D there shall be inserted the following regulation—

“ Disregard of payments treated as not relevant income

60E. Where the Secretary of State treats any payment of child support maintenance as not being relevant income for the purposes of section 74A of the Social Security Administration Act 1992 (payment of benefit where maintenance payments collected by Secretary of State), that payment shall be disregarded in calculating a claimant’s income.”.

Marginal Citations

M10 [Regulations 60A to 60D](#) were inserted by [S.I. 1993/846](#).

Signed by authority of the Secretary of State for Social Security.

A. J. B. Mitchell
Parliamentary Under-Secretary of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by virtue of, and are consequential upon, section 74A of the Social Security Administration Act 1992, which was inserted into that Act by section 25 of the Child Support Act 1995, and provides that where the Secretary of State is collecting maintenance payments on behalf of a person who is claiming certain social security benefits, the Secretary of State may disregard those maintenance payments for the purposes of calculating the claimant's benefit entitlement, and may then retain any such maintenance payments collected by him.

These Regulations provide definitions of certain terms for the purposes of section 74A, and make consequential amendments to the Income Support (General) Regulations 1987.

These Regulations are made within 6 months of the coming into force of section 74A of the Social Security Administration Act 1992 and are accordingly exempted by section 173(5)(b) of that Act from reference to the Social Security Advisory Committee and have not been so referred.

These Regulations do not impose a charge on businesses.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security Benefits (Maintenance Payments and Consequential Amendments) Regulations 1996.