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STATUTORY INSTRUMENTS

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**1999 No. 2640**

**SOCIAL SECURITY**

**The Social Security Amendment (Notional  
Income and Capital) Regulations 1999**

<i>Made</i>	- - - -	<i>20th September 1999</i>
<i>Laid before Parliament</i>		<i>27th September 1999</i>
<i>Coming into force</i>	- -	<i>15th November 1999</i>

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 123(1), 136(5)(a), 137(1) and 175(1) and (3) to (5) of the Social Security Contributions and Benefits Act 1992(1) and sections 12(4)(a), 35(1) and 36(1), (2) and (4) of the Jobseekers Act 1995(2) and of all other powers enabling him in that behalf, after consultation, in respect of provisions in these Regulations relating to housing benefit and council tax benefit, with organisations appearing to the Secretary of State to be representative of the authorities concerned(3) and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(4), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security Amendment (Notional Income and Capital) Regulations 1999 and shall come into force on 15th November 1999.

(2) In these Regulations—

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(5);

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(6);

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- (1) 1992 c. 4; sections 123 and 137 were amended to have effect in relation to council tax benefit by Schedule 9 to the Local Government Finance Act 1992 (c. 14), paragraphs 1 and 9; section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.
- (2) 1995 c. 18; section 35(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.
- (3) See section 176(1) of the Social Security Administration Act 1992 (c. 5).
- (4) See sections 170 and 173(1)(b) of the Social Security Administration Act 1992 (c. 5); paragraph 67 of Schedule 2 to the Jobseekers Act 1995 added that Act to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee.
- (5) S.I. 1992/1814.
- (6) S.I. 1987/1971.

“the Income Support Regulations” means the Income Support (General) Regulations 1987(7);  
 “the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(8).

### **Notional income and notional capital**

2.—(1) After head (i) in—

- (a) both regulations 42(4)(a) and 51(3)(a) of the Income Support Regulations(9); and
- (b) both regulations 105(10)(a)(i) and 113(3)(a)(i) of the Jobseeker’s Allowance Regulations(10),

(which relate respectively to notional income and to notional capital), there shall be inserted the following head—

“(ia) in a case where that payment is a payment of an occupational pension or is a pension or other periodical payment made under a personal pension scheme, as possessed by that single claimant or, as the case may be, by that member;”.

(2) In paragraph (3) of both regulations 26 and 34 of the Council Tax Benefit Regulations(11) and regulations 35 and 43 of the Housing Benefit Regulations(12) (which relate respectively to notional income and to notional capital)—

- (a) immediately before sub-paragraph (a) there shall be inserted the following sub-paragraph—

“(za) to a third party in respect of a single claimant or a member of the family (but not a member of the third party’s family) shall, where that payment is a payment of an occupational pension or is a pension or other periodical payment made under a personal pension scheme, be treated as possessed by that single claimant or, as the case may be, by that member;”;

- (b) in sub-paragraph (a), after the word “shall” there shall be inserted the words “, where it is not a payment referred to in sub-paragraph (za),”.

(3) There shall be added as(13)—

- (a) regulations 26(3A)(d) and 34(3A)(c) of the Council Tax Benefit Regulations;
- (b) regulations 35(3A)(d) and 43(3A)(c) of the Housing Benefit Regulations;
- (c) regulations 42(4ZA)(d) and 51(3A)(c) of the Income Support Regulations;
- (d) regulations 105(10A)(d) and 113(3A)(c) of the Jobseeker’s Allowance Regulations,

the following sub-paragraph—

“under an occupational pension scheme or in respect of a pension or other periodical payment made under a personal pension scheme where—

- (i) a bankruptcy order has been made in respect of the person in respect of whom the payment has been made or, in Scotland, the estate of that person is subject to sequestration or a judicial factor has been appointed on that person’s estate under section 41 of the Solicitors (Scotland) Act 1980(14);

(7) S.I. 1987/1967.

(8) S.I. 1996/207.

(9) The relevant amending instruments are S.I. 1997/65 and 1998/2117.

(10) The relevant amending instrument is S.I. 1998/2117.

(11) The relevant amending instrument is S.I. 1998/2164.

(12) The relevant amending instruments are S.I. 1988/1971, 1991/1599, 1993/317 and 1998/2164.

(13) The paragraphs specified in this paragraph were inserted, in the case of sub-paragraphs (a) and (b) by S.I. 1998/2164 and in the case of sub-paragraphs (c) and (d) by S.I. 1998/2117.

(14) 1980 c. 46.

- (ii) the payment is made to the trustee in bankruptcy or any other person acting on behalf of the creditors; and
- (iii) the person referred to in (i) and any member of his family does not possess, or is not treated as possessing, any other income apart from that payment.”.

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

20th September 1999

*Angela Eagle*  
Parliamentary Under-Secretary of State,  
Department of Social Security

**Status:** This is the original version (as it was originally made).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Income Support (General) Regulations 1987 (S.I. [1987/1967](#)), the Jobseeker's Allowance Regulations 1996 (S.I. [1996/207](#)), the Housing Benefit (General) Regulations 1987 (S.I. [1987/1971](#)) and the Council Tax Benefit (General) Regulations 1992 (S.I. [1992/1814](#)).

In particular, regulation 2 of these Regulations provides that payments from an occupational pension and a personal pension which are made to a third party, shall be treated respectively as notional income or notional capital of the claimant or of a member of his family, in the benefits referred to above except where the intended beneficiary of the payment is bankrupt or is subject to sequestration, payment is made to the trustee or other person acting on the creditors' behalf and the beneficiary and his family have no other income.

These Regulations do not impose any charge on business.