

2005 No. 3360**SOCIAL SECURITY****The Social Security (Hospital In-Patients)
Regulations 2005***Made - - - - 6th December 2005**Laid before Parliament 12th December 2005**Coming into force in accordance with regulation 1*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred upon him by sections 113(1)(b), 123(1)(a), (d) and (e), 124(5), 130(4), 131(10), 135(1), 136(3), 137(1), 138(2) and (4) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(p), 73(1)(b) and 189(1), (4) and (5) of the Social Security Administration Act 1992(b), sections 4(5) and 36(1), (2) and (4)(a) of the Jobseekers Act 1995(c) and sections 2(3), (6) and (9), 3(8), 17(1) and 19(1) of the State Pension Credit Act 2002(d).

The Social Security Advisory Committee has agreed that the proposals to make these Regulations should not be referred to it.

Citation and commencement

1. These Regulations may be cited as the Social Security (Hospital In-Patients) Regulations 2005 and shall come into force for the purposes of—

- (a) this regulation and regulations 2, 5, 7 and 8, on 10th April 2006,
- (b) regulation 3—
 - (i) in so far as it relates to a particular beneficiary other than a beneficiary in receipt of incapacity benefit or severe disablement allowance, on 10th April 2006 if it is his day for payment or, if not, on his day for payment next following 10th April 2006 (“day for payment” has the same meaning as in regulation 22(3) of, and Schedule 6 to, the Social Security (Claims and Payments) Regulations 1987(e)),
 - (ii) in so far as it relates to a particular beneficiary in receipt of incapacity benefit or severe disablement allowance, on 10th April 2006,
- (c) regulation 4, in so far as it relates to a particular beneficiary, on the first day of the first benefit week to commence for that beneficiary on or after 10th April 2006 (“benefit week” has the same meaning as in the Income Support (General) Regulations 1987(f)),
- (d) regulation 6, in so far as it relates to a particular beneficiary, on the first day of the first benefit week to commence for that beneficiary on or after 10th

(a) 1992 c. 4; sections 123(e) and 131 were substituted by the Local Government Finance Act 1992 (c. 14), Schedule 9, paragraphs 1(1) and 4 respectively; sections 137(1) and 138(4) are cited for the definition of “prescribed”.

(b) 1992 c. 5; section 73(1) was amended by the Jobseekers Act 1995 (c. 18), Schedule 2, paragraph 49.

(c) 1995 c. 18.

(d) 2002 c. 16; section 17(1) is cited for the definition of “prescribed”.

(e) S.I. 1987/1968.

(f) S.I. 1987/1967.

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April 2006 (“benefit week” has the same meaning as in the Jobseeker’s Allowance Regulations 1996(a)), and

- (e) regulation 9–
 - (i) in so far as it relates to a beneficiary specified in paragraphs (b) to (d), on the dates specified in those paragraphs for that beneficiary, and
 - (ii) otherwise, on 10th April 2006.

Hospital in-patients entitled to an increase in benefit for a dependant

2.—(1) Paragraphs (2) and (3) apply where a beneficiary is entitled to an increase in benefit for an adult or child dependant under Part IV of the Social Security Contributions and Benefits Act 1992(b).

(2) Where the beneficiary has received free in-patient treatment for a period of not less than 52 weeks, the increase shall not be payable unless the beneficiary applies to the Secretary of State to pay the increase on behalf of the beneficiary to–

- (a) the dependant, or
- (b) some other person who is approved by the Secretary of State and who satisfies the Secretary of State that he will apply the increase for the benefit of the dependant.

(3) Where both the beneficiary and the dependant are in-patients and each has received free in-patient treatment for a period of not less than 52 weeks, the increase shall not be payable unless the beneficiary applies to the Secretary of State to pay the increase on behalf of the beneficiary to–

- (a) the dependant, or
- (b) some other person who is approved by the Secretary of State and who satisfies the Secretary of State that he will apply the increase for the benefit of a child
▶of the beneficiary◀

Words substituted in reg. 2(3)(b) by reg. 7 of S.I. 2006/588 as from 9.4.06.

(4) For the purposes of this regulation, a person shall be regarded as receiving or having received free in-patient treatment for any period for which he is or has been maintained free of charge while undergoing medical or other treatment as an in-patient–

- (a) in a hospital or similar institution under the National Health Service Act 1977(c), the National Health Service (Scotland) Act 1978(d) or the National Health Service and Community Care Act 1990(e), or
- (b) in a hospital or similar institution maintained or administered by the Defence Council,

and such a person shall for the purposes of sub-paragraph (a) be regarded as being maintained free of charge in a hospital or similar institution unless his accommodation and services are provided under section 65 of the National Health Service Act 1977, section 57 of the National Health Service (Scotland) Act 1978(f) or paragraph 14 of Schedule 2 to the National Health Service and Community Care Act 1990.

(a) S.I. 1996/207.

(b) Part IV provisions for increases in benefit for child dependants were revoked by the Tax Credits Act 2002 (c. 21), section 1(3)(e) and Schedule 6, subject to savings and transitional provisions under section 62.

(c) 1977 c. 49.

(d) 1978 c. 29.

(e) 1990 c. 19.

(f) Section 57 was substituted for sections 57 and 58 by the Health and Medicines Act 1988 (c. 49), section 7(11).

(5) For the purposes of paragraph (4), a period during which a person is regarded as receiving or having received free in-patient treatment shall be deemed to begin on the day after the day on which he enters a hospital or similar institution referred to in that paragraph and to end on the day on which he leaves such a hospital or similar institution.

(6) For the purposes of this regulation—

- (a) where an increase in a person's benefit is payable in respect of an adult or child dependant the increase shall be treated as a separate benefit, and
- (b) where a beneficiary's spouse or civil partner ("dependant") is temporarily absent from Great Britain for the purpose of being treated for incapacity which commenced before he left Great Britain the absence shall be disregarded for the purpose of determining whether the beneficiary is residing with the dependant and is entitled to an increase in benefit for him.

[Regulation 3 amends regulation 2 of S.I. 1982/1408.]

[Regulation 4 amends regulation 21, Schedules 2, 3, 7 and 9 of S.I. 1987/1967.]

[Regulation 5 amends regulations 22 and 12 of S.I.s 2006/214 and 2006/216 and regulations 28 and 11 of S.I.s 2006/213 and 2006/215.]

[Regulation 6 amends regulations 85, 86 and Schedules 2, 5 and 5A of S.I. 1996/207.]

[Regulation 7 amends regulation 1(2) of S.I. 2000/729.]

Regulation 8 amends regulations 1, 15 and Schedules 2 and 3 of S.I. 2002/1792.]

[Regulation 9 revokes S.I. 1975/555.]

Signed by authority of the Secretary of State for Work and Pensions.

Stephen C. Timms
Minister of State,

Department for Work and Pensions

6th December 2005

SCHEDULE

Regulation 9

Revocations

<i>Subordinate legislation revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Social Security (Hospital In-Patients) Amendment Regulations 1977	S.I. 1977/1693	The whole of the Regulations
The Social Security (Hospital In-Patients) Amendment Regulations 1979	S.I. 1979/223	The whole of the Regulations
The Social Security (Abolition of Injury Benefit) (Consequential) Regulations 1983	S.I. 1983/186	Regulation 4
The Social Security (Severe Disablement Allowance) Regulations 1984	S.I. 1984/1303	In Schedule 2, the entry relating to the Social Security (Hospital In-Patients) Regulations 1975
The Social Security (Dependency, Claims and Payments and Hospital In-Patients) Amendment Regulations 1984	S.I. 1984/1699	Regulation 2
The Social Security (Claims and Payments, Hospital In-Patients and Maternity Benefit) Amendment Regulations 1986	S.I. 1986/903	Regulation 3
The Social Security (Hospital In-Patients) Amendment Regulations 1987	S.I. 1987/31	The whole of the Regulations
The Social Security (Hospital In Patients) Amendment (No. 2) Regulations 1987	S.I. 1987/1683	The whole of the Regulations
The Income Support (General) Amendment No. 4 Regulations 1988	S.I. 1988/1445	Regulation 23(a)
The Income Support (General) Amendment Regulations 1990	S.I. 1990/547	Regulation 21(a) and (b)
The Social Security (Miscellaneous Provisions) Amendment (No. 2) Regulations 1992	S.I. 1992/2595	Regulation 11
The Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations 1996	S.I. 1996/1803	Regulation 40(a)
The Social Security (Miscellaneous Amendments) Regulations 1998	S.I. 1998/563	Regulation 8(2)(c)(ii) and (3)
The Social Security (Hospital In-Patients, Attendance Allowance and Disability Living Allowance) (Amendment) Regulations 1999	S.I. 1999/1326	Regulation 2

<i>Subordinate legislation revoked</i>	<i>References</i>	<i>Extent of revocation</i>
The Social Security (Benefits for Widows and Widowers) (Consequential Amendments) Regulations 2000	S.I. 2000/1483	Regulation 2
The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002	S.I. 2002/3019	Regulation 23(m)(ii)
The State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) (No. 2) Regulations 2002	S.I. 2002/3197	In the Schedule, paragraph 10(b)
The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003	S.I. 2003/455	In Schedule 1, paragraph 21(a) to (c)
The Social Security (Hospital In-Patients and Miscellaneous Amendments) Regulations 2003	S.I. 2003/1195	Regulations 2 to 6 and 8 to 10
The Social Security (Third Party Deductions and Miscellaneous Amendments) Regulations 2003	S.I. 2003/2325	Regulation 3(b)
The Social Security (Hospital In-Patients) Amendment Regulations 2004	S.I. 2004/101	The whole of the Regulations
The Social Security (Miscellaneous Amendments) Regulations 2004	S.I. 2004/565	Regulation 6(2)(c)
The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005	S.I. 2005/2877	In Schedule 3, paragraph 3

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke the Social Security (Hospital In-Patients) Regulations 1975 (“the 1975 Regulations”) and amend other regulations so that, except in specified cases, a person’s benefit is no longer adjusted when the person has been receiving free medical treatment as a hospital in-patient for 52 weeks.

Regulation 2 saves provisions in the 1975 Regulations which remove or transfer any increase in benefit for an adult dependant if the beneficiary, or the beneficiary and dependant, have received free medical treatment as a hospital in-patient for 52 weeks or more.

Regulation 3 extends provisions in the Social Security (General Benefit) Regulations 1982 which disqualify claimants from receiving certain contributory and non-contributory benefits if they are sentenced to a period of imprisonment and during that period they are detained in hospital under mental health legislation. It updates the references to mental health legislation.

Regulation 4 amends the Income Support (General) Regulations 1987. Paragraph (2) abolishes, for most purposes, the rule that absences from hospital of up to 28 days are ignored when calculating a 52 week period as an in-patient; but paragraph (4) maintains the rule for stopping non-dependant deductions when the non-dependant has been a hospital in-patient for 52 weeks. Paragraph (5)(a) abolishes, for most cases, the adjustment of income support when a claimant has received free medical treatment as a hospital in-patient for 52 weeks. But if the claimant is entitled to a disability premium, enhanced disability premium or higher pensioner premium, paragraph (5)(c) removes entitlement to the premium after 52 weeks as such an in-patient. Paragraph (5)(b) provides for a nil applicable amount of income support in the circumstances specified by regulation 3 for other benefits.

Regulation 5 makes consequential amendments to the Housing Benefit (General) Regulations 1987 and the Council Tax Benefit (General) Regulations 1992.

Regulation 6 mirrors for jobseeker’s allowance the provisions made for income support by regulation 4(2), (4) and (5)(a) and (c).

Regulation 7 makes a consequential amendment to the Social Fund Winter Fuel Payment Regulations 2000.

Regulation 8 makes consequential amendments to the State Pension Credit Regulations 2002 and mirrors the provisions made for income support by regulation 4(2) and (5)(a) and (b).

Regulation 9 revokes the 1975 Regulations and other regulations.

A full regulatory impact assessment has not been provided for this instrument as it has no impact on the costs of businesses, charities and voluntary bodies.