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STATUTORY INSTRUMENTS

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**2007 No. 2618**

**The Social Security (Miscellaneous  
Amendments) (No. 5) Regulations 2007**

**Amendment of the Housing Benefit Regulations 2006**

- 11.**—(1) The Housing Benefit Regulations 2006(1) are amended as follows.
- (2) In regulation 2(1) (interpretation) at the appropriate place insert the following definition—
- ““starting rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act);”.
- (3) In regulation 7(8) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—
- (a) for “Where a person” substitute “Where”;
- (b) in sub-paragraph (a) insert “a person” at the beginning;
- (c) for sub-paragraph (b) substitute—
- “**(b)** either—
- (i) that person had claimed housing benefit before moving in and either no decision has yet been made on that claim or it has been refused but a further claim has been made or treated as made within 4 weeks of the date on which the claimant moved into the new dwelling occupied as the home; or
- (ii) that person notified the move to the new dwelling as a change of circumstances under regulation 88 (duty to notify changes of circumstances) before the move, or the move to the new dwelling was otherwise notified before the move under that regulation; and”;
- (d) for “he shall be treated” substitute “the person shall be treated”.
- (4) In regulation 35(1) (earnings of employed earners), after sub-paragraph (g) insert—
- “(gg) any payment or remuneration made under section 28, 34, 64, 68 or 70 of the Employment Rights Act 1996 (right to guarantee payments, remuneration on suspension on medical or maternity grounds, complaints to employment tribunals);”.
- (5) In regulation 36(6)(a) (calculation of net earnings of employed earners) for “lower rate”, wherever it occurs, substitute “starting rate”.
- (6) In regulation 39(1) (deduction of tax and contributions of self-employed earners) for “lower rate”, wherever it occurs, substitute “starting rate”.
- (7) In regulation 42 (notional income)—
- (a) at the end of paragraph (10)(b)(ii) add—
- “; or

- (c) to a claimant who is participating in a work placement approved by the Secretary of State (or a person providing services to the Secretary of State) before the placement starts.

(10A) In paragraph (10)(c) “work placement” means practical work experience which is not undertaken in expectation of payment.”;

- (b) in paragraph (12)(a) for “lower rate”, wherever it occurs, substitute “starting rate”.

(8) For regulation 47 (calculation of capital in the United Kingdom) substitute—

**“Calculation of capital in the United Kingdom**

**47.** Capital which a claimant possesses in the United Kingdom shall be calculated at its current market or surrender value less—

- (a) where there would be expenses attributable to the sale, 10 per cent; and
- (b) the amount of any encumbrance secured on it.”.

(9) In regulation 79 (date on which change of circumstances is to take effect)—

- (a) in paragraph (2A)(2) for “and (9)” substitute “to (10)”;
- (b) after paragraph (9) insert—

“(10) Where the change of circumstances is that the person moves to a new dwelling and immediately before the move that person is treated as occupying the new dwelling in accordance with regulation 7(8) then that change of circumstances shall take effect on the first day on which the person is treated as occupying the new dwelling as the home under that regulation.”.

(10) In regulation 82 (who may claim)—

- (a) for “receiver”, wherever it occurs, substitute “deputy”;
- (b) in sub-paragraph (2)(c) for “the Powers of Attorney Act 1971 or the Enduring Powers of Attorney Act 1985” substitute “the Powers of Attorney Act 1971, the Enduring Powers of Attorney Act 1985 or the Mental Capacity Act 2005(3) or otherwise”.

(11) In Schedule 4 (sums to be disregarded in the calculation of earnings)—

- (a) in paragraph 1—

- (i) in sub-paragraph (a) after “earnings” insert “paid or due to be paid”;
- (ii) for sub-paragraphs (b) and (c) substitute—

“(b) where before the first day of entitlement to housing benefit the employment has been terminated otherwise than because of retirement, any earnings paid or due to be paid in respect of that employment except—

- (i) any payment of the nature described in regulation 35(1)(e), or
- (ii) any award, sum or payment of the nature described in—

(aa) regulation 35(1)(g) or (h), or

(bb) section 34 or 70 of the Employment Rights Act 1996 (guarantee payments and suspension from work: complaints to employment tribunals)(4),

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(2) Paragraph (2A) was inserted by [S.I. 2005/2502](#) and amended by [S.I. 2006/217](#).

(3) [2005 c.9](#).

(4) [1996 c.18](#).

- including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings;
- (c) where before the first day of entitlement to housing benefit—
- (i) the employment has not been terminated, but
  - (ii) the claimant is not engaged in remunerative work, any earnings paid or due to be paid in respect of that employment except any payment or remuneration of the nature described in regulation 35(1)(e), (i) or (j).”;
- (b) in paragraph 2—
- (i) for “date of claim” substitute “first day of entitlement to housing benefit”;
  - (ii) after “earnings” where it first occurs insert “paid or due to be paid”;
  - (iii) for “earnings to which regulation 35(1)(e) applies” substitute “any payment of the nature described in regulation 35(1)(e)”;
  - (iv) for “earnings to which regulation 35(1)(e), (i) and (j) applies” substitute “any payment or remuneration of the nature described in regulation 35(1)(e), (i) or (j)”.
- (12) In paragraph 22 of Schedule 5 (sums to be disregarded in the calculation of income other than earnings) for sub-paragraphs (a) and (b) substitute—
- “(a) where the aggregate of any payments made in respect of any one week in respect of the occupation of the dwelling by that person or a member of his family, or by that person and a member of his family, is less than £20, the whole of that amount; or
  - (b) where the aggregate of any such payments is £20 or more per week, £20.”.