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STATUTORY INSTRUMENTS

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**2008 No. 2428**

The Employment and Support Allowance  
(Miscellaneous Amendments) Regulations 2008

PART 1

General amendments of the principal Regulations

**Amendment of Schedule 6 to the principal Regulations**

**16.** In Schedule 6 (housing costs)—

(a) in the heading for “68(2)(d)” substitute “68(1)(d)”;

(b) in paragraph 2 (remunerative work)—

(i) in sub-paragraph (1)—

(aa) for “the following provisions of this paragraph” substitute “sub-paragraphs (2) to (8)”;

(bb) for “person” the first time it occurs substitute “non-dependant (referred to in this paragraph as “person”)”;

(ii) for sub-paragraph (8) substitute—

“(8) A person is to be treated as not being engaged in remunerative work on any day in which that person falls within the circumstances prescribed in regulation 43(2) (circumstances in which partners of claimants entitled to an income-related allowance are not to be treated as engaged in remunerative work).

(9) Whether a claimant or the claimant’s partner is engaged in, or to be treated as being engaged in, remunerative work is to be determined in accordance with regulations 41 or 42 (meaning of “remunerative work” for the purposes of paragraph 6(1)(e) and (f) of Schedule 1 to the Act) as the case may be.”;

(c) in paragraph 3(2) (previous entitlement to other income-related benefits) for “income support” substitute “an income-related allowance”;

(d) in paragraph 6 (housing costs not met)—

(i) for sub-paragraph (2)(b) substitute—

“(b) after 2nd May 1994 and the housing costs applicable to that loan were not met by virtue of the former paragraph 5A of Schedule 3 to the Income Support Regulations, or paragraph 4(2)(a) of Schedule 3 to the Income Support Regulations, paragraph 4(2)(a) of Schedule 2 to the Jobseeker’s Allowance Regulations or paragraph 5(2)(a) of Schedule 2 to the State Pension Credit Regulations;”;

(ii) in sub-paragraph (12)(b) for “children of different sexes aged 10 or over” substitute “persons of different sexes aged 10 or over but aged under 20”;

(e) in paragraph 9(3) (new housing costs) for “paragraph 2” substitute “paragraph 3”;

- (f) in paragraph 12 (general provisions applying to new and existing housing costs) after sub-paragraph (10) add—
- “(11) Sub-paragraph (12) applies to a person who, had the person been entitled to income support and not an employment and support allowance, would have been a person to whom any of the following transitional or savings provisions would have applied—
- (a) regulation 4 of the Income Support (General) Amendment No. 3 Regulations 1993<sup>(1)</sup> (“the 1993 Regulations”);
  - (b) regulation 28 of the Income-related Benefits Schemes (Miscellaneous Amendments) Regulations 1995<sup>(2)</sup> (“the 1995 Regulations”).
- (12) Where this sub-paragraph applies, the amount of housing costs applicable in the particular case shall be determined as if—
- (a) in a case to which regulation 4(1) of the 1993 Regulations would have applied, sub-paragraphs 12(4) to (9) do not apply;
  - (b) in a case to which regulation 4(4) of the 1993 Regulations would have applied, the appropriate amount is £150,000; and
  - (c) in a case to which the 1995 Regulations would have applied, the appropriate amount is £125,000.”;
- (g) for paragraph 15(11)(b) (linking rule) substitute—
- “(b) is in full-time education and in receipt of disability living allowance;”;
- (h) in paragraph 19(7) (non-dependant deductions)—
- (i) in sub-paragraph (a) for “non-dependent” substitute “non-dependant”; and
  - (ii) for sub-paragraph (f) substitute—
- “(f) to whom, but for paragraph (5) of regulation 71 (definition of non-dependant) paragraph (4) of that regulation would apply;”;
- (i) in paragraph 19(8)(b) for “the Independent Living Funds” substitute “the Independent Living Fund (2006)”.

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(1) S.I. 1993/1679.

(2) S.I. 1995/516.