STATUTORY INSTRUMENTS

2008 No. 3140

SOCIAL SECURITY

The Social Security (Child Benefit Disregard) Regulations 2008

Made - - - -	*5th December 2008*
Laid before Parliament	*11th December 2008*
Coming into force - -	*5th January 2009*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of powers conferred by sections 123(1)(a), (d) and (e), 136(3) and (5)(b), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(**1**), and sections 12(1), (4)(b), 35(1) and 36(1), (2) and (4) of the Jobseekers Act 1995(**2**).

The Social Security Advisory Committee(**3**) has agreed that the proposals in respect of these Regulations should not be referred to it.

In respect of the provisions in these Regulations relating to housing benefit and council tax benefit, the Secretary of State has consulted the organisations appearing to him to be representative of the authorities concerned(**4**).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Social Security (Child Benefit Disregard) Regulations 2008.

(2) They come into force on 5th January 2009.

(3) Subject to paragraph (4), regulations 2 to 5 cease to have effect and are revoked on 6th April 2009; and on and after that date the Income Support (General) Regulations 1987(**5**), the Jobseeker's Allowance Regulations 1995(**6**), the Housing Benefit Regulations 2006(**7**) and the Council Tax Benefit Regulations 2006(**8**) shall have effect as if regulations 2 to 5 had not been made.

(**1**) 1992 c. 4. Section 123(1)(e) was substituted by paragraph 1(1) of Schedule 9 to the Local Government Finance Act 1992 (c. 14). Section. Section 137(1) is an interpretation provision and is cited because of the meaning given to the word "prescribed". Section 175(1) and (4) were amended by section 2 of, and paragraph 29(1) and (2) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(**2**) 1995 c. 18. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words "prescribed" and "regulations". Sections 35(1) and 36(4) were amended by section 2 of, and paragraphs 62 and 63 respectively of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(**3**) *See* sections 170, 172(1) and 173(1)(b) of the Social Security Administration Act 1992.

(**4**) *See* section 176(1) of the Social Security Administration Act 1992 as amended by section 103 of, and paragraph 23 of Schedule 9 to, the Local Government Finance Act 1992.

(**5**) S.I. 1987/1967.

(**6**) S.I. 1996/207.

(4) Regulation 4 ceases to have effect and is revoked on 1st April 2009 in relation to a claimant whose eligible rent falls to be calculated in accordance with regulation 80(2)(b) or (c)(**9**) of the Housing Benefit Regulations 2006; and on and after that date the Housing Benefit Regulations 2006 shall have effect in relation to such a claimant as if regulation 4 had not been made.

(5) In paragraph (4), the reference to regulation 80 means regulation 80 of the Housing Benefit Regulations 2006 as in force immediately before 1st April 2008 and as substituted by regulation 16 of the Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007(**10**).

Amendment of the Income Support (General) Regulations 1987

2.—(1) The Income Support (General) Regulations 1987 are amended as follows.

(2) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings), after paragraph 5B(**11**) insert—

> "**5C.**—(1) £1.20 in relation to each week in which child benefit is payable to the claimant at the enhanced rate in respect of a child or qualifying young person for whom the claimant is treated as responsible.
>
> (2) 65 pence in relation to each week in which child benefit is payable to the claimant other than at the enhanced rate in respect of a child or qualifying young person for whom the claimant is treated as responsible (and if there is more than one, 65 pence in relation to each such child or young person).
>
> (3) This paragraph does not apply to a claimant in relation to whom regulation 2 of, and Schedule 1 to, the Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003(**12**) have effect.
>
> (4) In this paragraph—
>
> "child" and "qualifying young person" have the meanings given in section 142 of the Contributions and Benefits Act;
>
> "treated as responsible" is to be construed in accordance with section 143 of that Act;
>
> "the enhanced rate" has the meaning given in regulation 2(1)(a) of the Child Benefit (Rates) Regulations 2006(**13**).".

Amendment of the Jobseeker's Allowance Regulations 1996

3.—(1) The Jobseeker's Allowance Regulations 1996 are amended as follows.

(2) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings), after paragraph 6B(**14**) insert—

> "**6C.**—(1) £1.20 in relation to each week in which child benefit is payable to the claimant at the enhanced rate in respect of a child or qualifying young person for whom the claimant is treated as responsible.
>
> (2) 65 pence in relation to each week in which child benefit is payable to the claimant other than at the enhanced rate in respect of a child or qualifying young person for whom

(**7**) S.I. 2006/213.
(**8**) S.I. 2006/215.
(**9**) Regulation 80 was substituted by S.I. 2007/2868.
(**10**) S.I. 2007/2868.
(**11**) Paragraph 5B was inserted by S.I. 2003/455.
(**12**) S.I. 2003/455.
(**13**) S.I. 2006/965. Regulation 2 was amended by S.I. 2008/797.
(**14**) Paragraph 6B was inserted by S.I. 2003/455.

the claimant is treated as responsible (and if there is more than one, 65 pence in relation to each such child or young person).

(3) This paragraph does not apply to a claimant in relation to whom regulation 3 of, and Schedule 2 to, the Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 have effect.

(4) In this paragraph—

"child" and "qualifying young person" have the meanings given in section 142 of the Contributions and Benefits Act;

"treated as responsible" is to be construed in accordance with section 143 of that Act;

"the enhanced rate" has the meaning given in regulation 2(1)(a) of the Child Benefit (Rates) Regulation 2006.".

Amendment of the Housing Benefit Regulations 2006

4.—(1) The Housing Benefit Regulations 2006 are amended as follows.

(2) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings), at the end add—

"**64.**—(1) £1.20 in relation to each week in which child benefit is payable to the claimant at the enhanced rate in respect of a child or qualifying young person for whom the claimant is treated as responsible.

(2) 65 pence in relation to each week in which child benefit is payable to the claimant other than at the enhanced rate in respect of a child or qualifying young person for whom the claimant is treated as responsible (and if there is more than one, 65 pence in relation to each such child or young person).

(3) In this paragraph —

"child" and "qualifying young person" have the meanings given in section 142 of the Act;

"treated as responsible" is to be construed in accordance with section 143 of the Act;

"the enhanced rate" has the meaning given in regulation 2(1)(a) of the Child Benefit (Rates) Regulations 2006.".

Amendment of the Council Tax Benefit Regulations 2006

5.—(1) The Council Tax Benefit Regulations 2006 are amended as follows.

(2) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings), at the end add—

"**65.**—(1) £1.20 in relation to each week in which child benefit is payable to the claimant at the enhanced rate in respect of a child or qualifying young person for whom the claimant is treated as responsible.

(2) 65 pence in relation to each week in which child benefit is payable to the claimant other than at the enhanced rate in respect of a child or qualifying young person for whom the claimant is treated as responsible (and if there is more than one, 65 pence in relation to each such child or young person).

(3) In this paragraph —

"child" and "qualifying young person" have the meanings given in section 142 of the Act;

"treated as responsible" is to be construed in accordance with section 143 of the Act;

"the enhanced rate" has the meaning given in regulation 2(1)(a) of the Child Benefit (Rates) Regulations 2006.".

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

Tony McNulty
Minister of State,
5th December 2008 Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Support (General) Regulations 1987, the Jobseeker's Allowance Regulations 1996, the Housing Benefit Regulations 2006 and the Council Tax Benefit Regulations 2006 so as to disregard in the calculation of income the increase in child benefit which takes effect on 5th January 2009. The Regulations cease to have effect at the beginning of April 2009, by which time it is anticipated that personal allowances will be increased by the annual up-rating order.

In the case of income support and jobseeker's allowance, the Regulations apply only to claimants who do not receive child tax credits. (For those who do, child benefit is already fully disregarded.)

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.