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STATUTORY INSTRUMENTS

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**2008 No. 3157**

**The Social Security (Miscellaneous  
Amendments) (No. 7) Regulations 2008**

**Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

**6.—**(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(1)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “concessionary payment” substitute—

““concessionary payment” means a payment made under arrangements made by the Secretary of State with the consent of the Treasury which is charged to a Departmental Expenditure Vote to which payments of benefit or tax credits under the benefit Acts or the Tax Credits Act are charged;”;

(b) in the definition of “registered housing association”<sup>(2)</sup>, in sub-paragraph (a), for “National Assembly for Wales” substitute “Welsh Ministers”;

(c) in the definition of “training allowance”, in sub-paragraphs (a) and (c), for “National Assembly for Wales” substitute “Welsh Ministers”;

(d) insert the following definitions at the appropriate places in alphabetical order—

““war disablement pension” means any retired pay or pension or allowance payable in respect of disablement under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003<sup>(3)</sup>;

“war pension” means a war disablement pension, a war widow’s pension or a war widower’s pension;

“war widow’s pension” means any pension or allowance payable to a woman as a widow under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;

“war widower’s pension” means any pension or allowance payable to a man as a widower or to a surviving civil partner under an instrument specified in section 639(2) of the Income Tax (Earnings and Pensions) Act 2003 in respect of the death or disablement of any person;”.

(3) In regulation 24(1) (circumstances in which income of non-dependant is to be treated as claimant’s), for “income support or an income-based jobseeker’s allowance” substitute “a guarantee credit”.

(4) In regulation 29(1) (meaning of “income”)—

(a) for sub-paragraph (h) substitute—

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<sup>(1)</sup> S.I. 2006/214.

<sup>(2)</sup> The definition of “registered housing association” was substituted by S.I. 2008/586.

<sup>(3)</sup> 2003 c. 1. Subsection (2) was inserted into section 639 by section 19(4) of the Finance Act 2005 (c. 7).

- “(h) a payment made under article 21(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005, in any case where article 23(2)(c) applies;”;
- (b) for sub-paragraph (l) substitute—
- “(l) a payment made—
- (i) under article 30 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006<sup>(4)</sup>, in any case where article 30(1)(b) applies; or
- (ii) under article 12(8) of that Order, in any case where sub-paragraph (b) of that article applies;”.
- (5) In regulation 31(11)(d)(vi) (treatment of child care charges), for “under a war pension scheme or” substitute “paid as part of a war disablement pension or under”.
- (6) In regulation 38(2) (earnings of self-employed earners)—
- (a) in sub-paragraph (d)(iv) omit “or”;
- (b) in sub-paragraph (d)(v), for “1977;” substitute “1977 or established by an order made under section 18(2)(c) of the National Health Service Act 2006<sup>(5)</sup>; or”;
- (c) after sub-paragraph (d)(v) insert—
- “(vi) a Local Health Board established under section 16BA of the National Health Service Act 1977 or established by an order made under section 11 of the National Health Service (Wales) Act 2006<sup>(6)</sup>.”.
- (7) In Schedule 1 (ineligible service charges), in paragraph (1)(a)(iv), for “National Assembly for Wales” substitute “Welsh Ministers”.
- (8) In Schedule 4 (sums disregarded from claimant’s earnings), in paragraph 5(1)(a)(v), for “article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”.
- (9) In Schedule 5 (amounts to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 1—
- (i) in sub-paragraph (c) omit “the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865 or the Pensions and Yeomanry Pay Act 1884, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and”;
- (ii) in sub-paragraph (d), after “payment” insert “and, if the amount of that payment has been abated to less than £10 by a payment under the Armed Forces Pension Scheme 1975 or the Armed Forces Pension Scheme 2005, so much of the pension payable under either of those schemes as would not, in aggregate with the amount of the guaranteed income payment disregarded, exceed £10”;
- (b) in paragraph 3, for “article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “article 20 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”;
- (c) for paragraph 4 substitute—

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<sup>(4)</sup> S.I. 2006/606.

<sup>(5)</sup> 2006 c. 41.

<sup>(6)</sup> 2006 c. 42.

- “4. Any supplementary pension under article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006 (pensions to surviving spouses and surviving civil partners) and any analogous payment made by the Secretary of State for Defence to any person who is not a person entitled under that Order.”;
- (d) for paragraph 6(1)(b) substitute—
- “(b) equal to the amount specified in article 23(2) of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006.”;
- (e) in paragraph 13—
- (i) for “pension under Part 4 of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983” substitute “pension or allowance under Part 2 or 3 of the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 2006”;
- (ii) omit “spouse or civil”;
- (f) in paragraph 21, after “satisfies” insert “any of”;
- (g) omit paragraph 23.
- (10) In Schedule 6 (capital to be disregarded)—
- (a) in paragraph 15, for “war disablement pension or a war widow’s or widower’s pension” substitute “war pension”;
- (b) in paragraph 18, for “or 21” substitute “, 21 or 26B”;
- (c) in paragraph 21(1)(e), for “National Assembly for Wales” substitute “Welsh Ministers”;
- (d) at the end of Part 1 add—
- “**26B.** Any arrears of supplementary pension which is disregarded under paragraph 4 of Schedule 5 (amounts to be disregarded in the calculation of income other than earnings) or of any amount which is disregarded under paragraph 5 or 6 of that Schedule.”.