

**2009 No. 2678**

**SOCIAL SECURITY**

**The Social Security Benefit (Computation of Earnings)  
(Amendment) Regulations 2009**

*Made* - - - - - *2nd October 2009*

*Laid before Parliament* *5th October 2009*

*Coming into force in accordance with regulation 1*

The Treasury, in exercise of the powers contained in sections 3(2) and (3) and 175(1), (1A), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), with the concurrence of the Secretary of State for Work and Pensions, make the following Regulations.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Social Security Benefit (Computation of Earnings) (Amendment) Regulations 2009.

(2) This regulation and regulation 2(1) and (3) shall come into force on 26th October 2009.

(3) Paragraph (2) of regulation 2, in so far as it relates to a particular beneficiary, shall come into force on the first day of the first benefit week to commence for that beneficiary on or after 26th October 2009.

**Amendment of the Social Security Benefit (Computation of Earnings) Regulations 1996**

2.—(1) The Social Security Benefit (Computation of Earnings) Regulations 1996(b) are amended as follows.

(2) In regulation 9(c) (earnings of employed earners)—

(a) for paragraph (3) substitute—

““Earnings” shall not include any payment in respect of expenses—

(a) wholly, exclusively and necessarily incurred in the performance of the duties of the employment; or

(b) arising out of the claimant’s participation in a service user group.”;

(b) in paragraph (4) at the appropriate places insert the following definitions—

““enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament;”;

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(a) 1992 c.4. Section 3(2) was amended, and the power to make regulations under it transferred to the Treasury, by paragraph 3 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2). Paragraph 29 of Schedule 3 to that Act amended paragraphs (1) and (4), and inserted paragraph (1A), of section 175. Section 175(1A) was subsequently amended by Schedule 6 to the Tax Credits Act 2002 (c.21).

(b) S.I. 1996/2745.

(c) Relevant amending instrument is S.I. 2002/2823.

““public authority” includes any person certain of whose functions are functions of a public nature;” and

““service user group” means a group of individuals that is consulted by or on behalf of—

- (a) a Health Board, Special Health Board or the Agency in consequence of a function under section 2B of the National Health Service (Scotland) Act 1978(a),
- (b) a landlord authority in consequence of a function under section 105 of the Housing Act 1985(b),
- (c) a public authority in consequence of a function under section 49A of the Disability Discrimination Act 1995(c),
- (d) a best value authority in consequence of a function under section 3 of the Local Government Act 1999(d),
- (e) a local authority landlord or registered social landlord in consequence of a function under section 53 of the Housing (Scotland) Act 2001(e),
- (f) a relevant English body or a relevant Welsh body in consequence of a function under section 242 of the National Health Service Act 2006(f),
- (g) a Local Health Board in consequence of a function under section 183 of the National Health Service (Wales) Act 2006(g),
- (h) the Commission or the Office of the Health Professions Adjudicator in consequence of a function under sections 4, 5, or 108 of the Health and Social Care Act 2008(h),
- (i) the regulator or a registered provider in consequence of a function under sections 98, 193 or 196 of the Housing and Regeneration Act 2008(i), or
- (j) a public or local authority in Great Britain in consequence of a function conferred under any other enactment,

for the purposes of monitoring and advising on a policy of that body or authority which affects or may affect persons in the group, or of monitoring or advising on services provided by that body or authority which are used (or may potentially be used) by those persons.”.

(3) In regulation 11 (calculation of earnings of self-employed earners)—

(a) in paragraph (2) for the words “royalties or sums paid periodically for or in respect of any copyright” substitute “any items to which paragraph (2A) applies”;

(b) after paragraph (2) insert—

“(2A) This paragraph applies to—

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
- (b) any payment in respect of any—
  - (i) book registered under the Public Lending Right Scheme 1982, or
  - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,

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(a) 1978 c.29.  
(b) 1985 c.68.  
(c) 1995 c.50.  
(d) 1999 c.27.  
(e) 2001 asp 10.  
(f) 2006 c.41.  
(g) 2006 c.42.  
(h) 2008 c.14.  
(i) 2008 c.17.

where the claimant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.”.

*Steve McCabe*

*Bob Blizzard*

2nd October 2009

Two of the Lords Commissioners of Her Majesty’s Treasury

The Secretary of State for Work and Pensions concurs

*Helen Goodman*

Parliamentary Under Secretary of State,

Department for Work and Pensions

2nd October 2009

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Social Security Benefit (Computation of Earnings) Regulations 1996 (S.I. 1996/2745).

Regulation 1 provides for citation and commencement.

Regulation 2(2) amends regulation 9 so that for employed earners any payment in respect of expenses relating to participation in a service user group is not included as earnings.

Regulation 2(3) amends regulation 11 to add reference to design, patent, and trade mark rights and to payments under the Public Lending Right Scheme and its foreign equivalents.

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

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