

---

## EXPLANATORY NOTE

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

These Regulations amend a number of different regulations relating to social security.

Regulation 2 amends the Income Support (General) Regulations 1987 (S.I. 1987/1967) (“the Income Support Regulations”) to:

- remove reference to residential care and nursing home charges which are no longer made by the Department for Work and Pensions, and
- clarify that a person will fall within the category of prescribed people who can claim income support when they are temporarily looking after a child because of the “temporary” illness of the usual carer.

Regulations 2, 4 and 6 to 9 amend the Income Support Regulations, the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) (“the Jobseeker's Allowance Regulations”), the Housing Benefit Regulations 2006 (S.I. 2006/213) (“the Housing Benefit Regulations”), the Council Tax Benefit Regulations (S.I. 2006/214) (“the Council Tax Benefit Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/215) (“the Housing Benefit (SPC) Regulations”) and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/216) (“the Council Tax Benefit (SPC) Regulations”) so as to remove obsolete references to “starting rate” taxation and, where appropriate, to replace it with a reference to “basic rate”.

Regulations 2, 4, 6, 8 and 10 amend the Income Support Regulations, the Jobseeker's Allowance Regulations, the Housing Benefit Regulations, the Council Tax Regulations, and the Employment and Support Allowance Regulations (S.I. 2008/794) (“the Employment and Support Allowance Regulations”) to:

- add to the list of persons who may make financial contributions to a student which may be assessed when considering the student's income to include the student's parent's partner,
- provide that payment of the higher education bursary for care leavers would be disregarded when calculating student grant income, and
- remove obsolete references to the Community Care (Direct Payments) Act 1996.

Regulation 2, 6 and 8 amend the Income Support Regulations, the Housing Benefit Regulations and the Council Tax Benefit Regulations to change the eligibility criteria for students in full-time, non-advanced education for these benefits.

Regulations 2, 4 to 10 amend the Income Support Regulations, the Jobseeker's Allowance Regulations, the State Pension Credit Regulations, the Housing Benefit Regulations, the Council Tax Benefit Regulations, the Housing Benefit (SPC) Regulations, the Council Tax Benefit (SPC) Regulations and the Employment and Support Allowance Regulations to:

- add Skills Development Scotland to the list of organisations that can provide training for which a “training allowance” is payable,
- add reference to “design, patent, and trade mark rights” to sections relating to royalties payments,
- add reference to “foreign public lending scheme payments” in sections relating to United Kingdom public lending right scheme payments, and
- provide that the health in pregnancy grant is disregarded when assessing the capital of a claimant (or claimant's partner).

Regulation 3 amends the Social Security (Claims and Payments) Regulations 1987 by increasing from £0.47 to £0.55 the fee which qualifying lenders pay for the purpose of defraying administrative expenses incurred by the Secretary of State in making payments in respect of mortgage interest to qualifying lenders.

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments) Regulations 2009. (See end of Document for details)

Regulation 4 amends the Jobseeker's Allowance Regulations to remove a provision that treated someone who worked on an annual contract at an educational establishment, but not during the summer holiday period, as being in paid employment for the whole year.

Regulations 6 to 9 amend the Housing Benefit Regulations, the Housing Benefit (SPC) Regulations, the Council Tax Benefit Regulations and the Council Tax Benefit (SPC) Regulations to amend entitlement to those benefits to include certain people who qualify for income support, an income-based jobseeker's allowance, an income-related employment and support allowance or a combination of those benefits.

Regulations 6 and 8 amend the Housing Benefit Regulations and the Council Tax Benefit Regulations to:

- amend the definition of “main phase Employment and Support Allowance”, so that the usual definition does not apply when calculating weekly personal allowances for housing benefit and council tax benefit, and to make corresponding provision to ensure that weekly personal allowances under employment and support allowance apply to all employment and support allowance claimants, and not just those who are in receipt of payment of employment and support allowance,
- change the definition for “period of study” to align it with the provisions of other income related benefit legislation,
- amend the provisions for awarding an addition appropriate to lone parents, so that they apply to employment and support allowance customers in the same way as they apply to customers of any of the other working age income-related benefits, and
- remove obsolete provisions relating to free school meals and school meals grants.

Regulations 6, 8 and 9 amend the Housing Benefit Regulations, the Council Tax Benefit Regulations and the Council Tax Benefit (SPC) Regulations to align the definition of who constitutes a “severely disabled claimant” when calculating applicable amounts with that used across other income related benefit legislation.

Regulations 7 and 9 amend the Housing Benefit (SPC) Regulations and Council Tax Benefit (SPC) Regulations to:

- apply the £20 weekly earnings disregard to all employment and support allowance claimants, and not just those who are in receipt of payment of employment and support allowance, and
- ensure that the treatment of royalties' payments is restricted to specified circumstances, so that the treatment is consistent with other income related benefits legislation.

Regulation 8 amends the Council Tax Benefit Regulations to:

- clarify that the Secretary of State, Scottish Enterprise or Highland and Islands Enterprise can approve or provide training that attracts a training allowance, and
- correct some minor drafting errors.

Regulation 10 amends the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) to:

- provide that payment of working tax credits during the last 4 week period of eligibility for those credits is taken into account when assessing eligibility to employment and support allowance, and
- clarify how working tax credit paid during a year is to be calculated.

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

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments) Regulations 2009.