

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS) (No. 4)
REGULATIONS 2010**

2010 No. 2126

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

This instrument makes amendments to increase permitted work earnings limits from £93 to £95 weekly. This is the amount that can be earned without a person being regarded as capable of work for the purpose of Employment and Support Allowance, Incapacity Benefit and other benefits. Corresponding increases are made to the limits applying to councillors receiving these benefits and to recipients of Unemployability Supplement under the Industrial Injuries Disablement Benefit Scheme.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None

4. Legislative Context

The increases to permitted work earnings limits and related limits are made following the Government's announcement on 21 June 2010 that the National Minimum Wage is to increase from £5.80 to £5.93 from 1 October 2010. The National Minimum Wage 1999(Amendment) Regulations were made on 22 July 2010. The Department for Work and Pensions is making amendments to reflect these changes. The sequence of events this year has been unusual because of the change of Government and it has been necessary to lay regulations during recess. We will consider alternative approaches so that regulations are laid before recess next year.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 To qualify for Employment and Support Allowance a person must have limited capability for work and meet any other relevant conditions of entitlement such as contribution conditions or income conditions. To qualify for Incapacity Benefit, or

Income Support on grounds of incapacity, a person must be incapable of work and meet any other relevant conditions of entitlement such as contribution conditions or income conditions. However a certain amount of work, referred to as “permitted work”, can be undertaken to encourage people to return to work or to encourage social contact. Normally, this must involve work that is less than 16 hours a week and is within certain earnings limits. The higher permitted work earnings limit is set at a level that allows people to work within the 16 hour limit at the National Minimum Wage rate. This is to encourage people to move towards work of more than 16 hours a week where they are able to do so. If the limit was not linked to the National Minimum Wage some people would lose entitlement to benefit simply because their earnings increased and the value of the earnings limit would be eroded over time.

7.2 The regulations increase the limit from £93.00 to £95.00 a week from 1 October 2010. Corresponding increases are made to the limits for allowances paid to councillors receiving contributory Employment and Support Allowance, Incapacity Benefit or Severe Disablement Allowance. The earnings limit for the purposes of Unemployability Supplement under the Industrial Injuries Disablement Benefit scheme is increased from £4,836 a year to £4,940 a year (£95 multiplied by 52 weeks).

7.3 The Government does not propose to increase the £20 permitted work lower earnings limit which allows benefit recipients to do a small amount of work each week for an unlimited period of time to encourage social contact. The level is set so that there is consistency with the amount of earnings disregards in Income Support and related benefits. Increasing this limit might encourage long-term dependency on benefits and reduce the effectiveness of the higher permitted work limit in encouraging people to move towards work of more than 16 hours a week.

- ***Consolidation***

7.4 Informal consolidation of this instrument will be included in due course in the Department’s “the law relating to Social Security” (the Blue Volumes) which are available at no cost to the public on the internet at:
<http://www.dwp.gov.uk/publications/specialist-guides/law-volumes/the-law-relating-to-social-security/>

8. Consultation outcome

The regulations have been considered by the Social Security Advisory Committee and the Industrial Injuries Advisory Committee both of which approved the regulations without requiring a formal referral. There has been no wider consultation since these regulations continue the long-standing policy of linking the higher permitted work earnings limit with the changes in the rate of National Minimum Wage

9. Guidance

Guidance will be updated to reflect these amendments. Information on the Directgov website and in relevant leaflets will be updated.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is negligible.

10.3 A full impact assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The permitted work earnings limits are kept under annual review.

13. Contact

Steve Brooke at the Department for Work and Pensions Tel: 0113 232 7418 or email: steve.brooke@jobcentreplus.gsi.gov.uk can answer any queries regarding the instrument.