
STATUTORY INSTRUMENTS

2011 No. 2425

**The Social Security (Miscellaneous
Amendments) (No. 3) Regulations 2011**

PART 3

AMENDMENTS TO SECONDARY LEGISLATION

Amendments to the Employment and Support Allowance Regulations 2008

23.—(1) The Employment and Support Allowance Regulations 2008 are amended as follows.

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

(a) after the definition of “carer’s allowance” insert—

““the Caxton Foundation” means the charitable trust of that name established on 28th March 2011 out of funds provided by the Secretary of State for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with its provisions;”;

(b) in the definition of “qualifying person” after “the Skipton Fund” insert “, the Caxton Foundation”; and

(c) omit the definition of “relevant disease” and after the definition of “relevant enactment” insert—

““relevant infection or contamination” means—

(a) in England and Wales—

(i) any incidence or spread of infection or contamination, within the meaning of section 45A(3) of the Public Health (Control of Disease) Act 1984⁽¹⁾ in respect of which regulations are made under Part 2A of that Act⁽²⁾ (public health protection) for the purpose of preventing, protecting against, controlling or providing a public health response to, such incidence or spread, or

(ii) any disease, food poisoning, infection, infectious disease or notifiable disease to which regulation 9 (powers in respect of persons leaving aircraft) of the Public Health (Aircraft) Regulations 1979⁽³⁾ applies or to which regulation 10 (powers in respect of certain persons on ships) of the Public Health (Ships) Regulations 1979⁽⁴⁾ applies; and

(b) in Scotland, any—

(1) 1984 c. 22.

(2) Part 2A was inserted by section 129 of the Health and Social Care Act 2008 (c. 14).

(3) S.I. 1979/1434.

(4) S.I. 1979/1435. Regulation 9 has been amended but not in a way material to these Regulations.

- (i) infectious disease within the meaning of section 1(5) of the Public Health etc (Scotland) Act 2008⁽⁵⁾, or exposure to an organism causing that disease, or
 - (ii) contamination within the meaning of section 1(5) of that Act, or exposure to a contaminant,

to which sections 56 to 58 of that Act (compensation) apply.”.
- (3) In regulation 8(1) (relaxation of the first contribution condition), for sub-paragraph (b) substitute—
 - “(b) the claimant has—
 - (i) earnings at the lower earnings limit in that tax year on which primary Class 1 contributions have been paid or treated as paid which in total, and disregarding any earnings which exceed the lower earnings limit for that year, are not less than that limit multiplied by 26; or
 - (ii) earnings factors in that tax year derived from Class 2 contributions multiplied by 26.”.
- (4) In regulation 20(c) (certain claimants to be treated as having limited capability for work), for “by reason of the claimant being a carrier, or having been in contact with a case, of a relevant disease” substitute “by reason of it being known or reasonably suspected that the claimant is infected or contaminated by, or has been in contact with a case of, a relevant infection or contamination”.
- (5) In each of regulations 22(2)(a) (failure to provide information in relation to limited capability for work) and 37(2)(a) (failure to provide information in relation to work-related activity), for “6 weeks” substitute “4 weeks”.
- (6) In each of regulations 22(2)(b) and 37(2)(b)—
 - (a) for “4 weeks” substitute “3 weeks”; and
 - (b) for “2 weeks have” substitute “1 week has”.
- (7) In regulation 70⁽⁶⁾ (special cases: supplemental – persons from abroad) omit paragraph (4)(f)(i).
- (8) In regulations 107(5)(a)⁽⁷⁾ (notional income – income due to be paid or income paid to or in respect of a third party) and 112(8)⁽⁸⁾ (income treated as capital), and paragraph 19(8)(b) of Schedule 6 (housing costs), paragraphs 22(2) and 41(1) of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) and paragraph 31 of Schedule 9 (capital to be disregarded), after “MFET Limited” insert “, the Skipton Fund, the Caxton Foundation”.
- (9) In regulation 115(5)(a) (notional capital), and paragraph 41(7) of Schedule 8 and paragraph 27(1) and (7) of Schedule 9, after “the Skipton Fund” insert “, the Caxton Foundation”.
- (10) In regulation 147A(5)⁽⁹⁾ (claimants appealing a decision)—
 - (a) in sub-paragraph (c) for “or struck out,” substitute “, struck out or has been discontinued in accordance with the provisions of regulation 33(10) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (notice of appeal)⁽¹⁰⁾,”; and

⁽⁵⁾ 2008 asp 5.

⁽⁶⁾ Regulation 70 has been amended but not in a way material to these Regulations.

⁽⁷⁾ Regulation 107 was amended by regulation 1(2) of S.I. 2008/2428 and regulation 11(9) of S.I. 2009/2655.

⁽⁸⁾ Regulation 112(8) was amended by regulation 8(5) of S.I. 2008/2428.

⁽⁹⁾ Regulation 147A was inserted by regulation 9(15) of S.I. 2010/840.

⁽¹⁰⁾ S.I. 1999/991. Regulation 33(10) was inserted by S.I. 2000/1596, but then substituted entirely by S.I. 2002/1379 and then amended by S.I. 2008/2683.

- (b) after the words “is to be treated as not having limited capability for work”, for the remainder of paragraph (5) substitute “with effect from the day specified in paragraph (5A).”.
- (11) After regulation 147A(5) insert—
- “(5A) The day specified for the purposes of paragraph (5) is the first day of the benefit week following the date on which the Secretary of State either—
- (a) receives the First-tier Tribunal’s notification that the appeal is dismissed, withdrawn or struck out, or
 - (b) discontinues action on an appeal in the circumstances to which regulation 33(10) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (notice of appeal) applies.”.
- (12) In regulation 148(3)(11) (work or training beneficiaries) after the definition of “linking term” insert—
- ““most recent past period of limited capability for work” means the period of limited capability for work which most recently precedes the period in respect of which the current claim is made, including any period of which that previous period is treated as a continuation by virtue of regulation 145(1) or (2) (linking rules);”.
- (13) In regulation 161(1)(a) (suspension of payment of a contributory allowance during imprisonment) for “(2)” substitute “(1)”.
- (14) In paragraph 6 (severe disability premium) of Schedule 4 (amounts), in—
- (a) sub-paragraph (2)(a)(i); and
 - (b) sub-paragraph (2)(b)(i),
- after “care component” insert “or attendance allowance”.
- (15) In paragraph 15(12) (linking rule) of Schedule 6, in sub-paragraphs (4)(b) and (17)(c) after “income” insert “equal to or”.
- (16) In paragraph 13 of Schedule 8 and paragraph 52 of Schedule 9—
- (a) in sub-paragraph (1), after paragraph (a)(iii) omit “or”;
 - (b) in sub-paragraph (1), after paragraph (b) add—
“; or
 - (c) in England, by way of financial assistance made pursuant to section 14 of the Education Act 2002.”; and
 - (c) in sub-paragraph (2), after “education maintenance allowance” insert “or other payment”.

(11) Regulation 148 was amended by regulation 21 of S.I. 2010/2430.

(12) Paragraph 15 has been amended but not in a way material to these Regulations.