

2014 No. 591

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) Regulations
2014**

<i>Made</i> - - - -	<i>11th March 2014</i>
<i>Laid before Parliament</i>	<i>18th March 2014</i>
<i>Coming into force</i> - -	<i>28th April 2014</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 44C(3)(e), 123(1)(a) and (d), 136(3), (4) and (5), 136A, 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(a), 115A(2)(b), 189(1), (4) and (6) and 191 of the Social Security Administration Act 1992(b) (“the Administration Act”), sections 12(4), 35(1), 36(1), (2) and (4)(a) of the Jobseekers Act 1995(c), sections 15(3) and (6), 17(1) and 19(1) of the State Pension Credit Act 2002(d) and sections 17(1), 24(1) and 25(2), (3) and (5)(a) of the Welfare Reform Act 2007(e).

In accordance with section 173(1)(b) of the Administration Act, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals in respect of these Regulations need not be referred to it.

In respect of provisions relating to housing benefit, in accordance with section 176(1) of the Administration Act(f), the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

Citation and commencement

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 2014 and come into force on 28th April 2014.

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- (a) 1992 c.4. Section 44C is inserted by section 9(1) of the Pensions Act 2007 (c.22). Section 137(1) is an interpretation provision and is cited for the definition of “prescribed”. Section 175(1) and (4) is amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (b) 1992 c.5. Section 115A is inserted by section 15 of the Social Security Administration (Fraud) Act 1997 (c.47) and amended by sections 113(1) to (7), 114(1) and 115(1) and (2) of the Welfare Reform Act 2012 (c.5). Section 189(4) is amended by paragraphs 109(c), (d) and (e) of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c.14) and paragraphs (4) and (6) are amended by S.I. 2013/252. Section 191 is an interpretation provision and is cited for the definition of “prescribe”. The definition of “prescribe” is amended by paragraphs 2 and 10 of Schedule 5 to the Welfare Reform Act 2007 (c.5).
- (c) 1995 c.18. Section 35(1) is an interpretation provision and is cited for the meaning of “prescribed” and “regulations”.
- (d) 2002 c.16. Section 17(1) is an interpretation provision and is cited for the meaning of “prescribed” and “regulations”.
- (e) 2007 c.5. Section 24(1) is an interpretation provision and is cited for the meaning of “prescribed” and “regulations”.
- (f) Section 176(1) is amended by Schedule 9, paragraph 23 to the Local Government Finance Act 1992 (c.14), Schedule 13, paragraph 3(4) to the Housing Act 1996 (c.52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000 (c.19).

Amendment of the Income Support (General) Regulations 1987

2.—(1) The Income Support (General) Regulations 1987(a) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1) omit the definition of “service user group”;

(b) after paragraph (1A) insert—

“(1B) References in these Regulations to a claimant participating as a service user are to—

(a) a person who is being consulted by or on behalf of—

(i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or

(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,

in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or

(b) the carer of a person consulted under sub-paragraph (a).”.

(3) In regulation 35(2)(f) (earnings of an employed earner), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

(4) In regulation 42(8ZA) (notional income), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

(5) In paragraph 14(2) (disabled child premium)(b) of Schedule 2 (applicable amounts), for “or (b)” substitute “, (b), (d) or (e)”.

(6) In paragraph 12(2B) (the standard rate) of Schedule 3 (housing costs), for “0.5%” substitute “0.5 percentage points”.

(7) In paragraph 2A of Schedule 9 (sums to be disregarded in the calculation of income other than earnings), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

Amendment of the Social Security (Claims and Payments) Regulations 1987

3.—(1) The Social Security (Claims and Payments) Regulations 1987(c) are amended as follows.

(2) In regulation 4(11) (making a claim for benefit)—

(a) for “bereavement benefit or” substitute “bereavement benefit,”; and

(b) after “expenses” insert “or winter fuel payment”.

Amendment of the Jobseeker’s Allowance Regulations 1996

4.—(1) The Jobseeker’s Allowance Regulations 1996(d) are amended as follows.

(2) In regulation 1 (citation, commencement, interpretation and application)—

(a) in paragraph (3) omit the definition of “service user group”;

(b) after regulation (3F) insert—

(a) S.I. 1987/1967. Relevant amending instruments are S.I. 1989/1323, 1992/1198, 1997/454, 1999/1509, 2004/963 and 2009/2655.

(b) Paragraph 14 is revoked by S.I. 2003/455 but remains in force for certain claimants by virtue of regulation 1(4C) of S.I. 2003/455. In so far as it remains in force, it was substituted by S.I. 2007/719.

(c) S.I. 1987/1968. Regulation 4(11) was inserted by S.I. 2005/34. Relevant amending instruments are S.I. 2005/1551 and 2010/1676.

(d) S.I. 1996/207. Relevant amending instruments are S.I. 1997/454, 1999/1509, 2004/963 and 2009/2655.

“(3G) References in these Regulations to a claimant participating as a service user are to—

- (a) a person who is being consulted by or on behalf of—
 - (i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or
 - (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or
- (b) the carer of a person consulted under sub-paragraph (a).”.

(3) In regulation 98(2)(h) (earnings of an employed earner), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

(4) In regulation 105(15A) (notional income), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

(5) In paragraph 11(2B) (the standard rate) of Schedule 2 (housing costs), for “0.5%” substitute “0.5 percentage points”.

(6) In paragraph 2A of Schedule 7 (sums to be disregarded in the calculation of income other than earnings), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

Amendment of the Social Security (Penalty Notice) Regulations 1997

5.—(1) Regulation 2 (notice) of the Social Security (Penalty Notice) Regulations 1997(a) is amended as follows.

(2) In paragraph (1)—

- (a) after “1992” insert “(“the 1992 Act”) in a case to which section 115A(1) of that Act applies”;
- (b) in paragraph (a)—
 - (i) omit “only”;
 - (ii) after “71,”, insert “71ZB,”;
- (c) in paragraph (b), omit “only”;
- (d) in paragraph (c), for “30 per cent of the amount of the overpayment,” substitute “50 per cent of the amount of the overpayment (subject to the maximum and minimum amounts prescribed in section 115A(3) of the 1992 Act)”;
- (e) in paragraph (d), for “28” substitute “14”.

(3) After paragraph (1) insert—

“(1A) Where the Secretary of State or authority gives to a person written notice under section 115A(2) of the 1992 Act in a case to which section 115(1A) of that Act applies, the notice shall contain the information that—

- (a) the penalty applies where it appears to the Secretary of State or authority that there are grounds for instituting proceedings against the person for an offence relating to an act or omission on the part of the person in relation to any benefit;
- (b) if an overpayment attributable to the act or omission had been made, the overpayment would have been recoverable under section 71, 71ZB, 71A, 75 or 76 of the 1992 Act;
- (c) the penalty is £350;

(a) S.I. 1997/2813.

- (d) a person who agrees to pay the penalty may withdraw the agreement within 14 days (including the date of the agreement) by notifying the Secretary of State or authority in the manner specified by the Secretary of State or authority; if the person withdraws the agreement, so much of the penalty as has already been recovered shall be repaid and he will no longer be immune from proceedings for an offence;
 - (e) if it is decided on review or appeal (or in accordance with regulations) that any overpayment attributable to the act or omission would not have been recoverable or due, so much of the penalty as has already been recovered shall be repaid;
 - (f) the payment of a penalty does not give the person immunity from prosecution in relation to any overpayment or any other offence not relating to an overpayment.”.
- (4) In paragraph (2), after “The notice” insert “in either case”.
- (5) The amendments made by paragraphs (2) to (4) apply only where the offence in respect of which the notice is given is committed wholly on or after 8th May 2012.

Amendment of the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001

- 6.**—(1) The Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001(a) are amended as follows.
- (2) In regulation 5A(3) (earnings factor credits eligibility for pensioners to whom employment and support allowance was payable), after “this regulation” insert “and regulation 5C”.
- (3) After regulation 5B (earnings factor credits eligibility for certain persons entitled to universal credit) insert—

“Earnings factor credit eligibility for pensioners to whom section 1A of the 2007 Act applied

- 5C.**—(1) For the purposes of section 44C(3) (earnings factor credits) of the Contributions and Benefits Act, a pensioner is eligible for earnings factor enhancement in respect of a week to which paragraph (2) applies.
- (2) This paragraph applies to a week in which, in relation to the pensioner concerned, each of the days would have been—
- (a) a day of limited capability for work; or
 - (b) a day on which that pensioner would have been treated as having limited capability for work,
- for the purposes of Part 1 of the 2007 Act (limited capability for work) where that pensioner would have been entitled to an employment and support allowance but for the application of section 1A of the 2007 Act.”.

Amendment of the State Pension Credit Regulations 2002

- 7.**—(1) The State Pension Credit Regulations 2002(b) are amended as follows.
- (2) In regulation 1 (citation, commencement and interpretation)—
- (a) in paragraph (2) omit the definition of “service user group”;
 - (b) after paragraph (3) insert—
- “(3A) References in these Regulations to a claimant participating as a service user are to—
- (a) a person who is being consulted by or on behalf of—

(a) S.I. 2001/1323. Regulation 5A was inserted by S.I. 2009/2206 and regulation 5B was inserted by S.I. 2013/630.
 (b) S.I. 2002/1792. Relevant amending instrument is S.I. 2009/2655.

- (i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or
- (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,
in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or

(b) the carer of a person consulted under sub-paragraph (a).”.

(3) In regulation 17A(3)(f) (earnings of an employed earner), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

(4) In regulation 18(7A) (notional income), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

(5) In regulation 24(3) (income paid to third parties), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

(6) In paragraph 9(2B) (the standard rate) of Schedule 2 (housing costs), for “0.5%” substitute “0.5 percentage points”.

Amendment of the Housing Benefit Regulations 2006

8.—(1) The Housing Benefit Regulations 2006(a) are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) in paragraph (1) omit the definition of “service user group”;
- (b) after paragraph (4) insert—

“(5) References in these Regulations to a claimant participating as a service user are to—

- (a) a person who is being consulted by or on behalf of—
 - (i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or
 - (ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,
in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or
- (b) the carer of a person consulted under sub-paragraph (a).”.

(3) In regulation 35(2)(d) (earnings of an employed earner), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

(4) In regulation 42(12A) (notional income), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

(5) In paragraph 2A of Schedule 5 (sums to be disregarded in the calculation of income other than earnings), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

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

9.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(b) are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) in paragraph (1) omit the definition of “service user group”;

(a) S.I. 2006/213. Relevant amending instruments are S.I. 2002/3019, 2004/1141, 2005/2677 and 2009/2655.
 (b) S.I. 2006/214. Relevant amending instruments are S.I. 2005/2677 and 2009/2655.

(b) after paragraph (5) insert—

“(6) References in these Regulations to a claimant participating as a service user are to—

(a) a person who is being consulted by or on behalf of—

(i) a body which has a statutory duty to provide services in the field of health, social care or social housing; or

(ii) a body which conducts research or undertakes monitoring for the purpose of planning or improving such services,

in their capacity as a user, potential user, carer of a user or person otherwise affected by the provision of those services; or

(b) the carer of a person consulted under sub-paragraph (a).”.

(3) In regulation 35(2)(f) (earnings of employed earners), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

(4) In regulation 41(8C) (notional income), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

(5) In regulation 42(3) (income paid to third parties), for “claimant’s participation in a service user group” substitute “claimant participating as a service user”.

Amendment of the Employment and Support Allowance Regulations 2008

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

(2) In regulation 95(1)(h) (earnings of employed earners)—

(a) for “sections” substitute “section”;

(b) for “and” substitute “or”.

(3) In paragraph 13(2B) (the standard rate) of Schedule 6 (housing costs), for “0.5%” substitute “0.5 percentage points”.

Signed by authority of the Secretary of State for Work and Pensions.

11th March 2014

Freud
Parliamentary Under Secretary of State
Department for Work and Pensions

(a) S.I. 2008/794; relevant amending instruments are S.I. 2011/2428 and 2013/574.

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulations 2(2) to (4) and (7), 4(2) to (4) and (6), 7(2) to (5), 8 and 9 amend respectively the Income Support (General) Regulations 1987 (S.I. 1987/1967) (“the 1987 Regulations”), the Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207) (“the 1996 Regulations”), the State Pension Credit Regulations 2002 (S.I. 2002/1792) (“the 2002 Regulations”), the Housing Benefit Regulations 2006 (S.I. 2006/213) and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214). These amendments replace the existing definition of, and references to, a service user group with the revised definition of, and references to, a claimant participating as a service user. This has the effect of clarifying the existing provisions and ensuring consistency with the equivalent provisions in the Universal Credit Regulations 2013 (S.I. 2013/376), the Jobseeker’s Allowance Regulations 2013 (S.I. 2013/378), the Employment and Support Allowance Regulations 2013 (S.I. 2013/379) and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) (“the 2008 Regulations”).

Regulation 2(5) amends paragraph 14 of Schedule 2 to the 1987 Regulations to provide that the disabled child premium is not payable to a claimant who cares for a child or young person who is in receipt of personal independence payment or armed forces independence payment if the child or young person’s capital exceeds £3,000 or if they are a long term patient.

Regulations 2(6), 4(5), 7(6) and 10(3) amend the 1987 Regulations, the 1996 Regulations, the 2002 Regulations and the 2008 Regulations respectively. These amendments change the wording of the regulation from “0.5%” to “0.5 percentage points” to make clear the operation of the provision.

Regulation 3 amends the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) to allow for winter fuel payment claims to be made by telephone.

Regulation 5 amends the Social Security (Penalty Notice) Regulations 1997 (S.I. 1997/2813) to prescribe changes to the form of notices given to certain people who are offered the opportunity to pay an administrative penalty as an alternative to prosecution for social security offences. These changes apply in respect of offences committed wholly on or after 8th May 2012 and reflect changes allowing such penalties to be offered where there has been an attempt to commit such offences, and to the amount of such penalties, made by sections 113 to 115 of the Welfare Reform Act 2012 (c.5).

Regulation 6 amends the Additional Pension and Social Security Pensions (Home Responsibilities) (Amendment) Regulations 2001 (S.I. 2001/1323) to include those who become entitled to incapacity credits because their entitlement to contributory ESA has exhausted, and those who would have had or been treated as having limited capacity for work on a day but their entitlement had exhausted under section 1A of the Welfare Reform Act 2007 (c.5).

Regulation 10(2) makes minor amendments to the 2008 Regulations to regularise the drafting with similar provisions in other working age benefit legislation. The operation of the regulation is not affected.

An impact assessment has not been produced for this instrument as it has no impact on businesses and civil society organisations. The instrument has no impact on the public sector.

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