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## STATUTORY INSTRUMENTS

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**2015 No. 67**

### **SOCIAL SECURITY**

#### **The Social Security (Miscellaneous Amendments) Regulations 2015**

<i>Made</i>	- - - -	<i>26th January 2015</i>
<i>Laid before Parliament</i>		<i>2nd February 2015</i>
<i>Coming into force</i>	- -	<i>23rd February 2015</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 182C(1) and 189(4) of the Social Security Administration Act 1992<sup>(1)</sup> (“the Administration Act”), sections 35(3), 35B(11), 136(3) and (5), 136A, 137(1), 138(2) and (4), 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992<sup>(2)</sup>, sections 12(1) and (4), 35(1) and 36(2) and (4) of the Jobseekers Act 1995<sup>(3)</sup>, sections 15(3) and (6), 17(1) and 19(1) of the State Pension Credit Act 2002<sup>(4)</sup>, sections 17(1) and (3), 24(1) and 25, (2) and (3) and (5)(a) of the Welfare Reform Act 2007<sup>(5)</sup> and sections 8(3), 40 and 42(1), (2) and (3)(a) of, and paragraph 4(1)(b) and (3)(a) of Schedule 1 to, the Welfare Reform Act 2012<sup>(6)</sup>.

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 in these Regulations relating to housing benefit, in accordance with section 176(1) of the Administration Act<sup>(7)</sup>, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

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- (1) 1992 c.5. Section 182C was inserted by paragraph 9 of Schedule 1 to the Social Security Administration (Fraud) Act 1997 (c.47).
- (2) 1992 c.4. Section 35(3) was amended by S.I.1994/1230, paragraph 4(3) of Schedule 7 to the Employment Act 2002 (c.22) and paragraph 6 of Schedule 1 to the Work and Families Act 2006 (c.18). Section 35B was inserted by S.I.2014/606. Section 136 was repealed in relation to council tax benefit by paragraph 1 of Schedule 14(1) to the Welfare Reform Act 2012 (c.5) (repeal has effect from 1 April 2013 as specified in S.I. 2013/358, subject to savings and transitional provisions specified in articles 9 and 10 of S.I. 2013/358). Section 136A was added by the State Pension Credit Act 2002 (c.16). Sections 137(1) and 138(4) are interpretation provisions and are cited for the meaning they give to “prescribed”. Section 175(1) and (4) were amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).
- (3) 1995 c.18. Section 35(1) is an interpretation provision and is cited for the meaning it gives to “prescribed” and “regulations”.
- (4) 2002 c.16. Section 17(1) is an interpretation provision and is cited for the meaning it gives to “prescribed” and “regulations”.
- (5) 2007 c.5. Section 24(1) is an interpretation provision and is cited for the meaning it gives to “prescribed” and “regulations”.
- (6) 2012 c.5. Section 40 is an interpretation provision and is cited for the meaning it gives to “prescribed”.
- (7) Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c.14), paragraph 3(4) of Schedule 13 to the Housing Act 1996 (c.52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000 (c.19).

## Citation and commencement

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 2015 and come into force on 23rd February 2015.

## Service User amendments

2.—(1) Paragraph (2) amends the following provisions—

- (a) regulation 2(1B) (interpretation) of the Income Support (General) Regulations 1987<sup>(8)</sup>;
- (b) regulation 1(3G) (citation, commencement and interpretation) of the Jobseeker's Allowance Regulations 1996<sup>(9)</sup>;
- (c) regulation 1(3A) (citation, commencement and interpretation) of the State Pension Credit Regulations 2002<sup>(10)</sup>;
- (d) regulation 2(5) (interpretation) of the Housing Benefit Regulations 2006<sup>(11)</sup>;
- (e) regulation 2(6) (interpretation) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(12)</sup>;
- (f) regulation 2(8) (interpretation) of the Employment and Support Allowance Regulations 2008<sup>(13)</sup>;
- (g) regulation 53(2) (meaning of other terms relating to earned income) of the Universal Credit Regulations 2013<sup>(14)</sup>;
- (h) regulation 3(6) (further interpretation) of the Jobseeker's Allowance Regulations 2013<sup>(15)</sup>; and
- (i) regulation 80(5) (earnings of employed earners) of the Employment and Support Allowance Regulations 2013<sup>(16)</sup>.

(2) Each of the provisions specified in paragraph (1) (which define when a claimant is participating as a service user) are amended as follows—

(a) after sub-paragraph (a) insert—

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

- (i) the Secretary of State in relation to any of the Secretary of State's functions in the field of social security or child support or under section 2 of the Employment and Training Act 1973<sup>(17)</sup>; or

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

in their capacity as a person affected or potentially affected by the exercise of those functions or the carer of such a person;”

(b) in sub-paragraph (b) for “sub-paragraph (a)” substitute “sub-paragraphs (a) or (ab)”.

(3) In regulation 3(6) (further interpretation) of the Jobseeker's Allowance Regulations 2013, before sub-paragraph (a) omit “the person”.

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<sup>(8)</sup> S.I. 1987/1967. Regulation 2(1B) was inserted by S.I. 2014/591.

<sup>(9)</sup> S.I. 1996/207. Regulation 1(3G) was inserted by S.I. 2014/591.

<sup>(10)</sup> S.I. 2002/1792. Regulation 1(3) was inserted by S.I. 2014/591.

<sup>(11)</sup> S.I. 2006/213. Regulation 2(5) was inserted by S.I. 2014/591.

<sup>(12)</sup> S.I. 2006/214. Regulation 2(6) was inserted by S.I. 2014/591.

<sup>(13)</sup> S.I. 2008/794. Regulation 2(8) was inserted by S.I. 2013/2536.

<sup>(14)</sup> S.I. 2013/376.

<sup>(15)</sup> S.I. 2013/378.

<sup>(16)</sup> S.I. 2013/379.

<sup>(17)</sup> 1973 c.50. Section 2 was substituted by section 25(1) of the Employment Act 1988.

### **Amendment of the Social Security (Maternity Allowance) Regulations 1987**

3. In regulation 2 of the Social Security (Maternity Allowance) Regulations 1987<sup>(18)</sup> (disqualification for the receipt of a maternity allowance) omit paragraphs (5) and (6).

### **Amendment of the Social Fund Winter Fuel Payment Regulations 2000**

4. In the Social Fund Winter Fuel Payment Regulations 2000<sup>(19)</sup>—
- (a) in regulation 1(2) (citation, commencement and interpretation) omit the definition of “Income Support Regulations”;
  - (b) in regulation 2(4), for “(2)(a)(ii)” substitute “(1)(a)(ii)”;
  - (c) in regulation 3(1)(a) (persons not entitled to a social fund winter fuel payment), at the end of paragraph (ii) omit “or” and after paragraph (iii) insert—
    - “(iv) in residential care and is a person to whom state pension credit, an income-based jobseeker’s allowance or an income-related employment and support allowance has been, or falls to be, paid in respect of the qualifying week; or”.

### **Amendment of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001**

5. In regulation 9 (application for allocation of national insurance number) of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001<sup>(20)</sup>—

- (a) in paragraph (1), for “paragraph (2)” substitute “paragraphs (2) and (2A)”;
- (b) after paragraph (2) insert—
  - “(2A) The provisions of paragraph (1) shall not apply to a person in respect of whom the Secretary of State or the Commissioners for Her Majesty’s Revenue and Customs are notified that a biometric immigration document is to be issued pursuant to regulation 13 of the Immigration (Biometric Registration) Regulations 2008<sup>(21)</sup>.”.

### **Amendment of the Housing Benefit Regulations 2006**

6. At the end of regulation 59(4) (calculation of grant income)<sup>(22)</sup> of the Housing Benefit Regulations 2006<sup>(23)</sup> add “or paid under section 63(6) of the Health Services and Public Health Act 1968<sup>(24)</sup>”.

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<sup>(18)</sup> S.I. 1987/416. Regulation 2 was substituted by regulation 2(3) of S.I. 2014/884.

<sup>(19)</sup> S.I. 2000/729. Paragraph (4) of regulation 2 was inserted by S.I. 2013/1509. Paragraph (1) of regulation 3 was amended by S.I. 2009/1488 and S.I. 2012/757.

<sup>(20)</sup> S.I. 2001/769.

<sup>(21)</sup> S.I. 2008/3048 as amended by S.I. 2009/819 and S.I. 2012/594.

<sup>(22)</sup> Paragraph (4) of regulation 59 was substituted by regulation 3(2) and (3) of S.I. 2006/1752.

<sup>(23)</sup> S.I. 2006/213.

<sup>(24)</sup> 1968 c.46. Section 63(6) was amended by the Health and Medicines Act 1988, section 20.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

26th January 2015

*Freud*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

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## EXPLANATORY NOTE

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

These Regulations amend various sets of social security regulations.

Regulation 2 amends the Income Support (General) Regulations 1987 ([S.I. 1987/1967](#)), the Jobseeker's Allowance Regulations 1996 ([S.I. 1996/207](#)), the State Pension Credit Regulations 2002 ([S.I. 2002/1792](#)), the Housing Benefit Regulations 2006 ([S.I. 2006/213](#)), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 ([S.I. 2006/214](#)), the Employment and Support Allowance Regulations 2008 ([S.I. 2008/794](#)), the Universal Credit Regulations 2013 ([S.I. 2013/376](#)), the Jobseeker's Allowance Regulations 2013 ([S.I. 2013/378](#)) and the Employment and Support Allowance Regulations 2013 ([2013/276](#)). These amendments amend the definition of 'service user' in those Regulations. Who is a "service user" is relevant to the calculation of income in those benefits, so that, for example, expenses paid to individuals consulted by or on behalf of a body with a statutory duty to perform functions in the field of social security (either in their capacity as a person affected or potentially affected by the exercise of those functions or as a carer of a person so affected or potentially affected) may be disregarded when calculating income and therefore, the notional income rule in those benefits will not apply. Expenses paid to a carer of such an individual (i.e. a carer of a carer of a service user) are disregarded by sub-paragraph (b) of the paragraphs being amended. Regulation 2(3) makes a minor correction to the Jobseeker's Allowance Regulations 2013.

Regulation 3 revokes regulation 2(5) and (6) of the Social Security (Maternity Allowance) Regulations 1987 ([S.I.1987/416](#)). These provide respectively that a woman shall be disqualified from receiving maternity allowance if, during the maternity allowance period, she fails without good cause to take due care of her health or to answer reasonable enquiries by the Secretary of State or the Secretary of State's officers, directed at whether she is doing so and how the period of such disqualification is determined.

Regulation 4 amends the Social Fund Winter Fuel Payment Regulations 2000 ([S.I. 2000/729](#)). It omits an unnecessary definition in regulation 1(2). It also corrects an incorrect cross-reference in regulation 2(4). Finally, it ensures that regulation 3(1)(a) reflects the existing policy intention that there is no entitlement to a winter fuel payment in respect of residents of a residential care home who are in receipt of certain income-related benefits during the qualifying week.

Regulation 5 amends the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 ([S.I. 2001/769](#)) so as to provide that where the Department for Work and Pensions (DWP) or Her Majesty's Revenue and Customs (HMRC) are notified that a person is to be issued with a biometric residence permit by the Home Office, that person is exempted from the requirement to apply to DWP or HMRC for a National Insurance number.

Regulation 6 amends regulation 59(4) of the Housing Benefit Regulations 2006 ([S.I.2006/213](#)) to provide that NHS parents' learning allowance paid under section 63(6) of the Health Services and Public Health Act 1968 is disregarded when calculating entitlement to Housing Benefit. This change aligns the position in these Regulations with that applying in relation to the other income-related benefits.

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