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STATUTORY INSTRUMENTS

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**1998 No. 563**

**The Social Security (Miscellaneous  
Amendments) Regulations 1998**

**PART III**

**AMENDMENTS WITH RESPECT TO INCOME-  
RELATED BENEFITS AND JOBSEEKER'S ALLOWANCE**

**Common amendments: Deductions from income support**

**3.—**(1) In regulation 1(2) (citation, commencement and interpretation) of each of the Regulations specified in paragraph (2) below, the following definitions shall be inserted in the appropriate places—

““contribution-based jobseeker’s allowance”, except in a case to which paragraph (b) of the definition of income-based jobseeker’s allowance applies, means a contribution-based jobseeker’s allowance under Part I of the Jobseekers Act 1995(1), but does not include any back to work bonus under section 26 of the Jobseekers Act which is paid as jobseeker’s allowance;”;

““income-based jobseeker’s allowance” means—

- (a) an income-based jobseeker’s allowance under Part I of the Jobseekers Act 1995; and
- (b) in a case where, if there was no entitlement to contribution-based jobseeker’s allowance, there would be entitlement to income-based jobseeker’s allowance at the same rate, contribution-based jobseeker’s allowance,

but does not include any back to work bonus under section 26 of the Jobseekers Act which is paid as jobseeker’s allowance;”.

(2) The Regulations specified in this paragraph are—

- (a) the Community Charges (Deductions from Income Support)(No.2) Regulations 1990(2);
- (b) the Community Charges (Deductions from Income Support)(Scotland) Regulations 1989(3);
- (c) the Council Tax (Deductions from Income Support) Regulations 1993(4); and
- (d) the Fines (Deductions from Income Support) Regulations 1992(5).

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(1) 1995 c. 18.

(2) S.I.1990/545; relevant amending instrument S.I.1996/2344.

(3) S.I.1989/507; relevant amending instrument S.I.1996/2344.

(4) S.I.1993/494; relevant amending instrument S.I.1996/2344.

(5) S.I.1992/2182; relevant amending instrument S.I.1996/2344.

**Common amendments: Disregard of contribution**

4.—(1) In each of the regulations specified in paragraph (2) below (students) in the definition of “contribution”(6), after the words “in respect of the income” there shall be inserted the words “of a student or”.

- (2) The regulations specified in this paragraph are—
- (a) regulation 38 of the Council Tax Benefit Regulations;
  - (b) regulation 41 of the Disability Working Allowance Regulations;
  - (c) regulation 37 of the Family Credit Regulations;
  - (d) regulation 46 of the Housing Benefit Regulations;
  - (e) regulation 61 of the Income Support Regulations; and
  - (f) regulation 130 of the Jobseeker’s Allowance Regulations.

(3) In each of the Regulations specified in paragraph (4) below, the following regulation shall be inserted and numbered in accordance with that paragraph—

**“Further disregard of student’s income**

Where any part of a student’s income has already been taken into account for the purposes of assessing his entitlement to a grant, the amount taken into account shall be disregarded in assessing that student’s income.”

- (4) The Regulations and regulation numbers specified in this paragraph are—
- (a) regulation 48A of the Council Tax Benefit Regulations;
  - (b) regulation 48A of the Disability Working Allowance Regulations;
  - (c) regulation 43A of the Family Credit Regulations;
  - (d) regulation 58A of the Housing Benefit Regulations;
  - (e) regulation 67A of the Income Support Regulations; and
  - (f) regulation 137A of the Jobseeker’s Allowance Regulations.

**Common amendments: Interpretation**

5.—(1) In each of the regulations specified in paragraph (2) below (interpretation) there shall be inserted the following definition in the appropriate place—

““the Children Order” means the Children (Northern Ireland) Order 1995(7);”.

- (2) The regulations specified in this paragraph are—
- (a) regulation 2(1) of the Council Tax Benefit Regulations;
  - (b) regulation 2(1) of the Disability Working Allowance Regulations;
  - (c) regulation 2(1) of the Family Credit Regulations;
  - (d) regulation 2(1) of the Housing Benefit Regulations;
  - (e) regulation 2(1) of the Income Support Regulations; and
  - (f) regulation 1(3) of the Jobseeker’s Allowance Regulations.

(6) The definition of “contribution” was substituted in the regulations referred to in paragraph (2)(a), (d) and (e) by S.I.1996/1944.  
 (7) S.I.1995/755 (N.I.2).

### **Common amendments: Notional income**

6.—(1) In each of the regulations specified in paragraph (2) below (notional income), the word “or” and the following sub-paragraph shall be added bearing the specified letter—

“rehabilitation allowance made under section 2 of the Employment and Training Act 1973(8).”.

(2) The regulations specified in this paragraph are—

- (a) regulation 26(2)(e) of the Council Tax Benefit Regulations(9);
- (b) regulation 29(2)(e) of the Disability Working Allowance Regulations(10);
- (c) regulation 26(2)(e) of the Family Credit Regulations(11);
- (d) regulation 35(2)(e) of the Housing Benefit Regulations(12);
- (e) regulation 42(2)(j) of the Income Support Regulations(13); and
- (f) regulation 105(2)(i) of the Jobseeker’s Allowance Regulations(14).

### **Common amendments: Disregard of income other than earnings**

7.—(1) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (2) below (sums to be disregarded in the calculation of income other than earnings) the following head shall be added bearing the specified letter—

“which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child’s maintenance);”.

(2) The paragraphs of the Schedules specified in this paragraph and the specified head in those paragraphs are—

- (a) head (c) of paragraph 24(1) of Schedule 4 to the Council Tax Benefit Regulations;
- (b) head (c) of paragraph 22(1) of Schedule 3 to the Disability Working Allowance Regulations;
- (c) head (c) of paragraph 22(1) of Schedule 2 to the Family Credit Regulations(15);
- (d) head (c) of paragraph 23(1) of Schedule 4 to the Housing Benefit Regulations(16); and
- (e) head (d) of paragraph 26(1) of Schedule 7 to the Jobseeker’s Allowance Regulations.

(3) For each of the paragraphs of the Schedules to the Regulations specified in paragraph (4) below (sums to be disregarded in the calculation of income other than earnings), there shall be substituted the following paragraph—

“Any payment made to the claimant or his partner for a person (“the person concerned”), who is not normally a member of the claimant’s household but is temporarily in his care, by—

- (a) a health authority;
- (b) a local authority;
- (c) a voluntary organisation; or

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(8) 1973 c. 50, as amended by section 25 of the Employment Act 1988 (c. 19).  
(9) Paragraph (2)(d) was added by S.I.1997/2197.  
(10) Paragraph (2)(d) was added by S.I.1997/2197.  
(11) Paragraph (2)(d) was added by S.I.1997/2197.  
(12) Paragraph (2)(d) was added by S.I.1997/2197.  
(13) Paragraph (2)(i) was added by S.I.1997/2197.  
(14) Paragraph (2)(h) was added by S.I.1997/2197.  
(15) Paragraph 22(1)(b) was substituted by S.I.1992/573.  
(16) Paragraph 23(1)(b) was substituted by S.I.1992/432.

- (d) the person concerned pursuant to section 26(3A) of the National Assistance Act 1948(17).”.
- (4) The paragraphs of the Schedules to the Regulations specified in this paragraph are—
- (a) paragraph 26 of Schedule 4 to the Council Tax Benefit Regulations;
  - (b) paragraph 24 of Schedule 3 to the Disability Working Allowance Regulations;
  - (c) paragraph 24 of Schedule 2 to the Family Credit Regulations;
  - (d) paragraph 25 of Schedule 4 to the Housing Benefit Regulations;
  - (e) paragraph 27 of Schedule 9 to the Income Support Regulations; and
  - (f) paragraph 28 of Schedule 7 to the Jobseeker’s Allowance Regulations.
- (5) In each of the paragraphs in the Schedules to the Regulations specified in paragraph (6) below for the words “paragraphs 13” there shall be substituted the words “paragraphs 13(1)”.
- (6) The paragraphs in the Schedules to the Regulations specified in this paragraph are—
- (a) paragraph 34 of Schedule 4 to the Council Tax Benefit Regulations; and
  - (b) paragraph 33 of Schedule 4 to the Housing Benefit Regulations.

**Council Tax Benefit, Housing Benefit, Income Support and Jobseeker’s Allowance:  
Amendments with respect to persons in detention**

8.—(1) For the words referred to in each of the provisions specified in paragraph (2) below there shall be substituted the words “who is detained in hospital under the provisions of the Mental Health Act 1983(18), or, in Scotland, under the provisions of the Mental Health (Scotland) Act 1984(19) or the Criminal Procedure (Scotland) Act 1995(20),”.

- (2) The words referred to and the provisions specified in this paragraph are—
- (a) in the Council Tax Benefit Regulations in regulation 4B (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)(21) the words from “who is detained” to “1984”;
  - (b) in the Housing Benefit Regulations—
    - (i) in regulation 5(8A) (circumstances in which a person is to be treated as liable to make payments in respect of a dwelling)(22) the words from “who is detained” to “1984”;
    - (ii) in regulation 63(7)(e)(iii) (non-dependant deductions)(23) the words from “whose detention is under” to “1984”;
  - (c) in the Income Support Regulations—
    - (i) in regulation 21(3) (special cases) in the definition of “prisoner”(24), the words from “whose detention is” to the end of the definition;
    - (ii) in paragraph 2A of Schedule 7 (applicable amounts in special cases)(25) the words from “who is detained” to “1984”; and
  - (d) in the Jobseeker’s Allowance Regulations in regulation 85(4) (special cases) in the definition of “prisoner” the words from “whose detention is” to “1984”.

(17) 1948 c. 29; section 26(3A) was inserted by section 42(4) of the National Health Service and Community Care Act 1990 (c. 19).

(18) 1983 c. 72.

(19) 1984 c. 36.

(20) 1995 c. 46.

(21) Regulation 4B was inserted by S.I.1995/560.

(22) Paragraph (8A) was inserted by S.I.1995/560.

(23) Regulation 63(7)(e) was added by S.I.1992/50.

(24) The definition of “prisoner” was substituted by S.I.1995/516.

(25) Paragraph 2A was substituted in Schedule 7 by S.I.1998/470.

(3) In paragraph 2A of Schedule 7 to the Income Support Regulations for the words “under either of those Acts” there shall be substituted the words “under any of those Acts”.

### **Housing Benefit: Maximum rent**

9. Regulation 11 of the Housing Benefit Regulations (maximum rent)(26) shall be amended in accordance with the following paragraphs—

- (a) in paragraph (8C)(27) for the words “paragraph 8(2A)”(28) there shall be substituted the words “paragraph 10”;
- (b) in paragraph (13)—
  - (i) in the definition of “property-specific rent” for the words “paragraph 1(2)” there shall be substituted “paragraph 1” and for the words “paragraph 3” there shall be substituted the words “paragraph 3(3)”;
  - (ii) for the definition of “the Rent Officers order” the following definition shall be substituted and inserted after the definition of “relevant rent”—

““the Rent Officers Order” means the Rent Officers (Housing Benefit Functions) Order 1997(29) or, as the case may be, the Rent Officers (Housing Benefit Functions) Scotland Order 1997(30);”;
  - (iii) in the definition of “relevant rent” for the words “paragraph 5” there shall be substituted the words “paragraph 6”; and
  - (iv) in the definition of “single room rent”(31) for the words “paragraph 4A” there shall be substituted the words “paragraph 5”.

### **Housing Benefit: Requirement to refer to rent officers**

10. In paragraph (1A) of regulation 12A of the Housing Benefit Regulations(32) (requirement to refer to rent officers) after sub-paragraph (b), the word “and” and the following sub-paragraph shall be added—

- “(c) where the accommodation is supported accommodation within the meaning of paragraph 7 of Schedule 1(33) and either—
  - (i) they include charges that are eligible for housing benefit solely by virtue of the exception in paragraph 1(f)(iii) of Schedule 1 (charges for general counselling and support in supported accommodation)(34) or by virtue of that exception and the exception in paragraph 1(f)(ii)—
    - (aa) that such charges are included; and
    - (bb) the value of those charges as determined by the local authority for the purposes of regulation 10 (rent) and Schedule 1; or
  - (ii) they include charges that are eligible for housing benefit by virtue of the exception in paragraph 1(f)(iii) of Schedule 1 or by virtue of that exception and the exception in paragraph 1(f)(ii) and those charges are also eligible by virtue of

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(26) Regulation 11 was substituted by [S.I.1995/1644](#).

(27) Paragraph (8C) was inserted by [S.I.1995/2868](#).

(28) Words substituted by [S.I.1997/852](#); relevant amending instrument [S.I.1997/852](#).

(29) [S.I.1997/1984](#).

(30) [S.I.1997/1995 \(S.144\)](#).

(31) This definition was inserted by [S.I.1996/965](#).

(32) Regulation 12A was inserted by [S.I.1990/546](#) and paragraph (1A) was inserted by [S.I.1995/2868](#).

(33) Paragraph 7 was added by [S.I.1997/1974](#).

(34) Paragraph 1(f) was substituted by [S.I.1994/1003](#) and head (iii) was added by [S.I.1997/1974](#).

the exception in paragraph 1(f)(i) (charges with respect the provision of adequate accommodation)—

- (aa) that such charges are included; and
- (bb) the value of those charges as determined by the local authority for the purposes of regulation 10 and Schedule 1.”.

### **Housing Benefit: Excluded tenancies**

**11.** Schedule 1A to the Housing Benefit Regulations(**35**) (excluded tenancies) shall be amended in accordance with the following paragraphs—

- (a) in paragraph 2(3)(c)(**36**)—
  - (i) after the words “the same as such a term” there shall be added the words “and that determination was not made under paragraph 1(2), 2(2) or 3(3) of Schedule 1 to the Rent Officers Order”; and
  - (ii) the word “if” and heads (i) and (ii) shall be omitted;
- (b) in paragraph 2(3)(e)(**37**) for the words from “for the purposes” to the words “(Scotland) Order 1990” there shall be substituted the words “under paragraph 2(2) of Schedule 1 to the Rent Officers Order”;
- (c) in paragraph 2(3)(f)(**38**) for the words “paragraph 4A” there shall be substituted the words “paragraph 5”;
- (d) in paragraph 12—
  - (i) after the definition of “rent” the following definition shall be inserted—
 

““the Rent Officers Order” means the Rent Officers (Housing Benefit Functions) Order 1997 or, as the case may be, the Rent Officers (Housing Benefit Functions) Scotland Order 1997(**39**)”;
  - (ii) the following definitions in paragraph 12 shall be omitted—
    - (aa) “the Order”;
    - (bb) “the relevant provisions”(**40**); and
    - (cc) “the Scottish Order”(**41**).

### **Income Support and Jobseeker’s Allowance: Treatment of grant awards for former students**

**12.** In regulation 29(2B) of the Income Support Regulations(**42**) and regulation 94(2B) of the Jobseeker’s Allowance Regulations(**43**) (calculation of earnings derived from employed earner’s employment and income other than earnings) after sub-paragraph (a) the following sub-paragraph shall be inserted—

- “(aa) where the grant is paid in instalments, on the day before the next instalment would have been paid had the claimant remained a student; or”.

(35) Schedule 1A was inserted by [S.I.1990/546](#); relevant amending instruments [S.I.1991/235](#), [1995/560](#) and [1996/965](#).

(36) Paragraph 2(3)(c) was amended by [S.I.1995/560](#).

(37) Head (e) was added to paragraph 2(3) of Schedule 1A by [S.I.1991/235](#) and amended by [S.I.1995/560](#).

(38) Head (f) was added to paragraph 2(3) of Schedule 1A by [S.I.1996/965](#).

(39) [S.I.1997/1995 \(S.144\)](#).

(40) Amended by [S.I.1990/1775](#).

(41) The definition of “the Scottish Order” was amended by [S.I.1989/1446](#), [1990/396 \(S.45\)](#), [1993/1249](#) and [1995/1644](#).

(42) Paragraph (2B) was inserted in regulation 29 by [S.I.1997/65](#).

(43) Paragraph (2B) was inserted in regulation 94 by [S.I.1997/65](#).

### **Income Support and Jobseeker's Allowance: Calculation of notional income and income other than earnings**

**13.**—(1) The Income Support Regulations shall be amended in accordance with the following sub-paragraphs—

- (a) in regulation 40(1) (calculation of income other than earnings) for the words “paragraphs (2) to (3A)(**44**)” there shall be substituted the words “paragraphs (2) to (3B)(**45**)”;
- (b) in regulation 42(7)(notional income) for the words “paragraphs (1) to (4)” there shall be substituted the words “paragraphs (1) to (4A)(**46**)”;
- (c) in Schedule 9 (sums to be disregarded in the calculation of income other than earnings)(**47**) at the end there shall be added the following paragraph—

“**64.** Any payment made with respect to a person on account of the provision of after-care under section 117 of the Mental Health Act 1983(**48**) or section 8 of the Mental Health (Scotland) Act 1984(**49**) or the provision of accommodation or welfare services to which Parts III and IV of the National Health Service and Community Care Act 1990(**50**) refer, which falls to be treated as notional income under paragraph (4A) of regulation 42 above (payments made in respect of a person in a residential care or nursing home).”

(2) In Schedule 7 to the Jobseeker's Allowance Regulations (sums to be disregarded in the calculation of income other than earnings) at the end there shall be added the following paragraph—

“**63.** Any payment which falls to be treated as notional income made under paragraph (11) of regulation 105 above (payments made in respect of a person in a residential care or nursing home).”

### **Income Support and Jobseeker's Allowance: Income treated as capital**

**14.**—(1) For regulation 48(8) of the Income Support Regulations (income treated as capital), as it has effect in England and Wales and as it has effect in Scotland(**51**), there shall be substituted the following paragraphs—

“(8) Any payment made by a local authority, which represents arrears of payments under—

- (a) paragraph 15 of Schedule 1 to the Children Act 1989 (power of a local authority to make contributions to a person with whom a child lives as a result of a residence order); or
- (b) section 34(6) or as the case may be, section 50 of the Children Act 1975(**52**) (payments towards maintenance for children),

shall be treated as capital.

(8A) Any payment made by an authority, as defined in Article 2 of the Children Order(**53**) which represents arrears of payments under Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance), shall be treated as capital.”

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(44) These words were substituted by [S.I.1990/1549](#).

(45) Paragraph (3B) was inserted by [S.I.1997/65](#).

(46) Paragraph (4A) was inserted by [S.I.1994/527](#).

(47) Paragraph 63 was inserted in Schedule 9 by [S.I.1997/2863](#).

(48) [1983 c. 20](#).

(49) [1984 c. 30](#).

(50) [1990 c. 19](#).

(51) Regulation 48(8) as it has effect in England and Wales was substituted by [S.I.1992/468](#); paragraph (8) as it has effect in Scotland was saved by [S.I.1992/468](#), Schedule paragraph 11.

(52) [1975 c. 72](#); as amended by section 64 of the Domestic Proceedings and Magistrates Courts Act [1978 \(c. 22\)](#).

(53) See regulation 5(1) above.

(2) In regulation 110(8) of the Jobseeker's Allowance Regulations (income treated as capital), after the words "maintenance of a child)" there shall be inserted the words "or any payment, made by an authority, as defined in Article 2 of the Children Order, which represents arrears of payments under Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance)."

### **Income Support: Disregard of income other than earnings**

**15.**—(1) Paragraph 7 of Schedule 9 to the Income Regulations (sums to be disregarded in the calculation of income other than earnings) shall be amended in accordance with the following paragraphs—

(a) in sub-paragraph (a) for the words ", 9 or 9A"**(54)** there shall be substituted the words "or 9";

(b) in sub-paragraph (b) at the end there shall be added the words "or jobseeker's allowance".

(2) For head (b) of paragraph 25(1) of Schedule 9 to the Income Support Regulations (sums to be disregarded in the calculation of income other than earnings) as it has effect in England and Wales**(55)** and as it has effect in Scotland the following heads shall be substituted—

"(b) which is a payment made by a local authority in pursuance of section 34(6) or, as the case may be, section 50 of the Children Act 1975 (contributions towards the cost of the accommodation and maintenance of a child);

(c) which is a payment made by a local authority in pursuance of section 15(1) of, and paragraph 15 of Schedule 1 to, the Children Act 1989 (local authority contribution to a child's maintenance where the child is living with a person as a result of a residence order);

(d) which is a payment made by an authority, as defined in Article 2 of the Children Order, in pursuance of Article 15 of, and paragraph 17 of Schedule 1 to, that Order (contribution by an authority to child's maintenance);"

### **Jobseeker's Allowance: Periods of interruption of employment**

**16.**—(1) Regulation 47A of the Jobseeker's Allowance Regulations (jobseeking periods: periods of interruption of employment)**(56)** shall be renumbered as regulation 47A(1) and in sub-paragraph (za) of that paragraph the words "and is still current on 1st December 1997" shall be omitted.

(2) After the renumbered paragraph (1) the following paragraph shall be added—

"(2) In paragraph (1) "period of interruption of employment" in relation to a period prior to 7th October 1996 has the same meaning as it had in the Benefits Act by virtue of section 25A of that Act (determination of days for which unemployment benefit is payable)**(57)** as in force on 6th October 1996."

### **Amendment of the Housing Benefit (General) Amendment Regulations 1995: Savings**

**17.** In regulation 10(6) of the Housing Benefit (General) Amendment Regulations 1995 (saving provision)**(58)** in the definition of "exempt accommodation"**(59)** for head (ii) there shall be substituted the following head—

**(54)** The words "9 or 9A" were substituted by [S.I.1991/2742](#); paragraph 9A was omitted by [S.I.1993/2119](#).

**(55)** Head (b) of paragraph 25(1) was substituted with respect to England and Wales by [S.I.1992/468](#).

**(56)** Regulation 47A was inserted by [S.I.1996/2538](#) and paragraph (za) was inserted by [S.I.1997/2677](#).

**(57)** Section 25A was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), Schedule 1 and repealed by the Jobseekers Act 1995 (c. 18), Schedule 3 paragraph 5.

**(58)** [S.I.1995/1644](#); relevant amending instruments [S.I.1996/462](#) and [1944](#).



“(ii) provided by a non-metropolitan county council in England within the meaning of section 1 of the Local Government Act 1972<sup>(60)</sup>, a housing association, a registered charity or voluntary organisation where care, support or supervision is provided by, or on behalf of, that body to the occupants of that accommodation;”.

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<sup>(59)</sup> Sub-paragraph (ii) of the definition of “exempt accommodation” was amended by [S.I.1996/1944](#)

<sup>(60)</sup> [1972 c. 71](#).