
STATUTORY INSTRUMENTS

2009 No. 583

**The Social Security (Miscellaneous
Amendments) Regulations 2009**

Amendment of the Housing Benefit Regulations 2006

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

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

- (a) in the appropriate place insert the following definition—
““basic rate”, where it relates to the rate of tax, has the same meaning as in the Income Tax Act 2007 (see section 989 of that Act);”;
- (b) in the definition of “main phase employment and support allowance”^{M1}, after “Act” insert “ except in Part 1 of Schedule 3 ”;
- (c) omit the definition of “starting rate”^{M2}.

(3) In—

- (a) regulation 2(1) (interpretation), in paragraphs (a) and (c) of the definition of “training allowance”^{M3},
- (b) regulation 7(18) (circumstances in which a person is or is not to be treated as occupying a dwelling as his home), in the definition of “training course”, and
- (c) Schedule 3 (applicable amounts), in paragraph 7(1)(b),

before “Scottish Enterprise” insert “ Skills Development Scotland, ”.

(4) In regulation 36(6)(a)^{M4} (calculation of net earnings of employed earners), regulation 39(1)^{M5} (deduction of tax and contributions of self-employed earners) and regulation 42(12)(a)^{M6} (notional income)—

- (a) omit “the starting rate or, as the case may be, the starting rate and”;
- (b) for “starting” substitute “ basic ”.

(5) For regulation 37(3)^{M7} (earnings of self-employed earners) substitute—

“(3) This paragraph applies to—

- (a) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
- (b) any payment in respect of any—
 - (i) book registered under the Public Lending Right Scheme 1982; or
 - (ii) work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982,

where the claimant is the first owner of the copyright, design, patent or trade mark, or an original contributor to the book or work concerned.”.

(6) In regulation 53(1) (interpretation)—

- (a) for the definition of “contribution”^{M8} substitute—

““contribution” means—

- (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student's grant or student loan; or
- (b) any sums, which in determining the amount of a student's allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following persons to contribute towards the holder's expenses—
 - (i) the holder of the allowance or bursary;
 - (ii) the holder's parents;
 - (iii) the holder's parent's spouse, civil partner or a person ordinarily living with the holder's parent as if he or she were the spouse or civil partner of that parent; or
 - (iv) the holder's spouse or civil partner;”;

(b) in the definition of “period of study”—

(i) for paragraph (b)(i) substitute—

“(i) the day before the start of the next year of the course in a case where the student's grant or loan is assessed at a rate appropriate to his studying throughout the year or, if he does not have a grant or loan, where a loan would have been assessed at such a rate had he had one; or”;

(ii) in paragraph (b)(ii) for “recognised” substitute “ normal ”.

(7) In regulation 56 (full-time students to be treated as not liable to make payments in respect of a dwelling)—

(a) in paragraph (2)(h)(i) ^{M9} for “19” substitute “ 21 ”;

(b) after paragraph (2) insert—

“(2A) For the purposes of paragraph (2)(h)(i) the student must have begun the course before attaining the age of 19.”.

(8) In regulation 59(2) (calculation of grant income), after sub-paragraph (h) add—

“(i) of higher education bursary for care leavers made under Part III of the Children Act 1989.”.

(9) In regulation 63 (other amounts to be disregarded) omit paragraph (2) ^{M10}.

(10) In Schedule 3 (applicable amounts)—

(a) after paragraph 1 insert—

“**1A.** For the purposes of paragraph 1 a claimant is entitled to main phase employment and support allowance if he personally satisfies paragraph 21 ^{M11} of this Schedule.”;

(b) in paragraph 3(4)—

(i) in paragraph (c) for “continued to be entitled to one or other of those benefits” substitute “ continuously, since that date, been entitled to income support, an income-based jobseeker's allowance or an income-related employment and support allowance or a combination of those benefits ”;

(ii) in paragraph (d) for “either of those benefits” substitute “ income support, an income-based jobseeker's allowance or an income-related employment and support allowance ”;

- (iii) in paragraph (e) ^{M12} after “12” insert “ or a component under paragraph 23 or 24 ”;
- (c) in paragraph 14(2)(b) for “entitled to or in receipt of” substitute “ entitled to and in receipt of”.
- (11) In Schedule 4 (sums to be disregarded in the calculation of earnings), after paragraph 2 insert—

“**2A.** In the case of a claimant who has been engaged in remunerative work or part-time employment as a self-employed earner or, had the employment been in Great Britain would have been so engaged and who has ceased to be so employed, from the date of the cessation of his employment any earnings derived from that employment except earnings to which regulation 37(3) and (4) ^{M13} (earnings of self-employed earners) apply.”.

(12) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings), in paragraph 57 omit “under the Community Care (Direct Payments) Act 1996 or”.

- (13) In Schedule 6 (capital to be disregarded)—
- (a) after paragraph 41 insert—

“**41A.** Any payment made under Part 8A of the Act (entitlement to health in pregnancy grant).”;

- (b) in paragraph 58 omit “the Community Care (Direct Payments) Act 1996, or”.

Marginal Citations

- M1** Definition of “main phase employment and support allowance” was inserted by [S.I. 2008/1082](#).
- M2** Definition of “starting rate” was inserted by [S.I. 2007/2618](#).
- M3** The relevant amending instrument is [S.I. 2008/3157](#).
- M4** The relevant amending instrument is [S.I. 2007/2618](#).
- M5** The relevant amending instrument is [S.I. 2007/2618](#).
- M6** The relevant amending instrument is [S.I. 2007/2618](#).
- M7** Inserted by [S.I. 2008/698](#).
- M8** The relevant amending instrument is [S.I. 2008/2767](#).
- M9** Substituted by [S.I. 2006/718](#).
- M10** The relevant amending instrument is [S.I. 2008/1042](#).
- M11** Inserted by [S.I. 2008/1082](#) and the relevant amending instrument is [S.I.2008/2428](#).
- M12** The relevant amending instrument is [S.I. 2008/1042](#).
- M13** Inserted by [S.I. 2008/698](#).

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments) Regulations 2009, Section 6.