

1987 No. 660

SOCIAL SECURITY

**The Supplementary Benefit (Resources) Amendment
Regulations 1987**

Made - - - - - 3rd April 1987
Coming into force 6th April 1987

The Secretary of State for Social Services, with the consent of the Treasury(a), in exercise of the powers conferred upon him by sections 2(2) and 34(1)(b) of, and paragraph 1 of Schedule 1 to the Supplementary Benefits Act 1976(c) and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee of the proposals as to these Regulations other than those which the Committee agreed should not be referred to it(d), hereby makes the following Regulations of which a draft has, in accordance with section 33(3) of the Act been laid before Parliament and approved by resolution of each House of Parliament:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Supplementary Benefit (Resources) Amendment Regulations 1987 and shall come into force on the 6th April 1987.

(2) In these Regulations the “Resources Regulations” mean the Supplementary Benefit (Resources) Regulations 1981(e).

Amendment of regulation 2(1) of the Resources Regulations

2. In regulation 2(1) of the Resources Regulations (interpretation) after the definition of “claimant” there shall be inserted the following definition—

““concessionary payment” means a payment made otherwise than in accordance with either the Act, the Social Security Act, the Child Benefit Act 1975(f) the Family Income Supplements Act 1970(g), or the Social Security and Housing Benefits Act 1982(h) under arrangements made by the Secretary of State with the consent of the Treasury which is charged either to the National Insurance Fund or to a Departmental Expenditure Vote to which payments of benefit under any of the enactments referred to is charged;”.

(a) See section 33(3) of the Supplementary Benefits Act 1976 (c.71).

(b) See definitions of “prescribed” and “regulations”.

(c) 1976 (c.71), as amended by section 6(1) of and Part I of Schedule 2 to the Social Security Act 1980 (c.30).

(d) See section 10 of the Social Security Act 1980 (c.30).

(e) S.I. 1981/1527; the relevant amending instruments are S.I. 1982/1125, 1126, 1983/1240, 1984/1102, 1985/614, 1246, 1986/1293, 1987/17.

(f) 1975 c.61.

(g) 1970 c.55.

(h) 1982 c.24.

Amendment of regulation 3(2) of the Resources Regulations

3. In regulation 3(2) of the Resources Regulations (calculation of resources) after sub-paragraph (h) there shall be added the following sub-paragraph—

- “(i) any payment made by a local authority pursuant to section 34(6) or, as the case may be, section 50 of the Children Act 1975(a) (custodianship payments) which represents a commutation of future periodical payments shall be treated as an income resource in accordance with regulation 9(2)(f).”.

Amendment of regulation 4(4) of the Resources Regulations

4. For paragraph (4) of regulation 4 of the Resources Regulations (notional resources of students) there shall be substituted the following paragraphs—

“(4) Where in determining the amount of a student’s grant or award an Education Authority has treated a contribution from his parent or spouse as applicable under the Awards Regulations or, as the case may be, by virtue of sections 73 and 74 of the Education (Scotland) Act 1980(b) and the Allowances Regulations, the student shall be treated as possessing an income resource of an amount equal to the amount of that contribution.

(4A) For the purposes of paragraph (4) “student” includes a person who was a student immediately before the first day of his normal summer vacation but does not include a person to whom regulation 6(a), (i) or (j) of the Conditions of Entitlement Regulations applies.”.

Amendment of regulation 6(1) of the Resources Regulations

5. In regulation 6(1) of the Resources Regulations (capital resources to be disregarded) after sub-paragraph (1) there shall be added the following sub-paragraphs—

“(m) any payment made by a local authority pursuant to section 34(6) or, as the case may be, section 50 of the Children Act 1975(a) (custodianship payments), other than a payment to which regulation 3(2)(i) applies, which is—

- (i) a commutation of periodical payments for maintenance in respect of a past period; or
- (ii) a payment which if it were income would be disregarded by virtue of regulation 11(4)(j);

(n) for a period not exceeding 12 months from the date of receipt, any concessionary payment which is in respect of arrears of—

- (i) attendance or mobility allowance under the Social Security Act,
- (ii) supplementary benefit,
- (iii) housing benefit.”.

Amendment of regulation 9(2) of the Resources Regulations

6. In regulation 9(2) of the Resources Regulations (calculation of income resources) after sub-paragraph (e) there shall be added the following sub-paragraph—

“(f) where a payment is one to which regulation 3(2)(i) applies—

- (i) for the purposes of sub-paragraph (a) the period in respect of which the payment is to be taken into account is the period which would have applied had the commuted payments been made periodically; and
- (ii) for the purposes of sub-paragraph (b), the payable date is the date on which the commuted payments would have been payable if made periodically; and
- (iii) the weekly rate of the payment shall be determined by dividing the amount of the payment by the number of weeks for which the payment is to be attributed in accordance with head (i) and sub-paragraph (a).”.

(a) 1975 c.72, as amended by section 64 of the Domestic Proceedings and Magistrates’ Courts Act 1978 (c.22).

(b) 1980 c.44.

Amendment of regulation 11 of the Resources Regulations

7. In regulation 11 of the Resources Regulations (calculation of other income)—
- (a) in paragraph (2)(h)(i) for the words “for his maintenance” there shall be substituted the words “for his or his partner’s maintenance”.
 - (b) in paragraph (2)(1) after the words “sum of £2” there shall be added the words “and in this sub-paragraph “student” includes a person who was a student immediately before the first day of his normal summer vacation.”.
 - (c) in paragraph (2)(t) for head (iii) there shall be substituted the following head—
“(iii) where the student is not in receipt of a grant or award, the ordinary maintenance requirement specified in Part 1 of Schedule 2 to the Awards Regulations or, as the case may be, the standard allowance provided by virtue of the enactments and provisions referred to in head (i), in respect of a student attending a course at, the University of London or at an establishment within the area comprising the City of London and the metropolitan police district, elsewhere or residing at his parent’s home;”.
 - (d) in paragraph (2)(u) for head (iii) there shall be substituted the following head—
“(iii) where the first mentioned person was not in receipt of a grant or award, the ordinary maintenance requirement specified in Part 1 of Schedule 2 to the Awards Regulations or, as the case may be, the standard allowance provided by virtue of the enactments and provisions referred to in head (i), in respect of a student attending a course at, the University of London or at an establishment within the area comprising the City of London and the metropolitan police district, elsewhere or residing at his parent’s home;”.
 - (e) after paragraph (2)(w) there shall be added the following sub-paragraphs—
“(x) any payment of statutory maternity pay under Part V of the Social Security Act 1986(a);
(y) subject to paragraphs (4)(q) and (5)(b) any concessionary payment made which represents payment in respect of any benefit under the Social Security Act, the Child Benefit Act 1975(b) or the Family Income Supplements Act 1970(c);”.
 - (f) in paragraph (4)—
 - (i) at the end of head (v) of sub-paragraph (d) there shall be added the following—
“and, in this sub-paragraph, references to “a student” includes a reference to a person who was a student immediately preceding the first day of his normal summer vacation;”;
 - (ii) after sub-paragraph (o) there shall be added the following sub-paragraphs—
“(p) any payment made in pursuance of section 34(6) or, as the case may be, section 50 of the Children Act 1975(d) (contributions to a custodian towards the cost of the accommodation and maintenance of a child) by a local authority, in respect of a person, to a member of the assessment unit with whom that person has his home, to the extent that its weekly amount is in excess of the aggregate of the normal and any additional requirements which are applicable for the same period in respect of that person;
(q) any concessionary payment, other than a payment to which paragraph (2)(p) applies (interim payments), made in respect of—
 - (i) any payment of attendance allowance or any payment based on a need for attendance as is specified in heads (i) to (iii) of paragraph (4)(b), unless paragraph (4A) would have applied to that payment had it been a payment of attendance allowance under section 35(3) of the Social Security Act;
 - (ii) any payment of mobility allowance;
 - (iii) of any pension or allowance under the Act.”.

(a) 1986 c.50.

(b) 1975 c.61.

(c) 1970 c.55.

(d) 1975 c.72, as amended by section 64 of the Domestic Proceedings and Magistrates’ Courts Act 1978 (c.22).

- (g) in paragraph (5)(b) for the words "or any analogous payment" there shall be substituted the words " , any analogous payment or any concessionary payment made which represents a payment in respect of those benefits or payments first mentioned in this sub-paragraph".

Transitional provision

8. Where—

- (a) a person was in receipt of a supplementary allowance immediately before 6th April 1987; and
- (b) in the calculation of his resources there was taken into account under regulation 11(2)(h)(i) of the Resources Regulations, as in force immediately before 6th April 1987 any allowance for his maintenance; and
- (c) that person continues to be in receipt of a supplementary allowance and such a maintenance allowance;

regulation 7(a) of these Regulations shall not apply to him, and his maintenance allowance shall continue to be taken into account only to the extent that regulation 11(2)(h)(i) as in force immediately before 6th April 1987 provided.

Signed by authority of the Secretary of State for Social Services.

2nd April 1987

John Major
Minister of State,
Department of Health and Social Security

We consent,

3rd April 1987

Peter Lloyd
Tim Sainsbury
Two of the Lords Commissioners
of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Supplementary Benefit (Resources) Regulations 1981.

They provide for the disregard of custodianship payments made by a local authority which represent a specific payment for a need not met by supplementary or housing benefit and arrears of periodical payments for maintenance, and also to treat an advance of future periodical payments as income to be attributed for the same period as the individual payments would have been, had they been paid periodically, and disregard the excess of any custodianship payment in excess of the child's normal and additional requirements (regulations 3, 5, 6 and 7).

They provide that a student is to be treated as possessing income of an amount equal to the assessed parental or spouse's contribution to the grant except in the case of an exempted student (regulation 4).

They provide that extra-statutory payments should be disregarded or taken into account as a resource to the same extent as the benefit which they represent (regulations 5 and 7(e), (f) and (g)).

They provide that income in the form of a Manpower Services Commission maintenance allowance in respect of a claimant's partner, is to be taken fully into account except where the claimant was in receipt of such an allowance and receiving supplementary benefit before 6th April 1987, and that any statutory maternity pay is also to be taken fully into account as income (regulations 7 and 8).

They provide that any grant income in excess of the standard maintenance grant of a student, and any income under a Deed of Covenant made by the student's parent or spouse in excess of that person's assessed contribution to the student's grant or, where the student is not in receipt of a grant, an amount equal to the standard maintenance grant in his case, is to be taken fully into account as income (regulation 7(b), (c) and (d)).

The report of the Social Security Advisory Committee on the proposals as to these Regulations dated the 17 December 1986 and the statement of the Secretary of State showing the extent to which the Regulations reflect the recommendations of that Committee, and to the extent that they do not, the reasons why not, are published by Her Majesty's Stationery Office as Command Paper No. 106.