
STATUTORY INSTRUMENTS

1992 No. 2155

SOCIAL SECURITY

The Income-related Benefits Schemes (Miscellaneous Amendments) (No. 3) Regulations 1992

Made - - - - *7th September 1992*
Laid before Parliament *14th September 1992*
Coming into force - - *5th October 1992*

The Secretary of State for Social Security, in exercise of powers conferred by sections 129(4) and (8), 135(1), 136(3), (4) and (5), 137(1) and (2)(d) and (e) and 175(1) to (5) of the Social Security Contributions and Benefits Act 1992⁽¹⁾ and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee⁽²⁾ that proposals in respect of these Regulations should not be referred to it, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income-related Benefits Schemes (Miscellaneous Amendments) (No. 3) Regulations 1992 and shall come into force on 5th October 1992.

(2) Regulations 12 to 21 of these Regulations shall have effect in relation to any particular claimant at the beginning of the first benefit week to commence for that claimant on or after the date specified in paragraph (1) which applies in his case; and for this purpose the expressions “claimant” and “benefit week” have the same meanings as in the Income Support Regulations.

(3) In these Regulations—

“the Disability Working Allowance Regulations” means the Disability Working Allowance (General) Regulations 1991⁽³⁾;

“the Family Credit Regulations” means the Family Credit (General) Regulations 1987⁽⁴⁾;

“the Income Support Regulations” means the Income Support (General) Regulations 1987⁽⁵⁾.

(1) 1992 c. 4; section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.
(2) See the Social Security Administration Act 1992 c. 5 sections 172(1) and 173(1)(b).
(3) S.I. 1991/2887.
(4) S.I. 1987/1973; relevant amending instruments are S.I. 1988/660, 1988/1970, 1990/574, 1990/1774 and 1992/573.
(5) S.I. 1987/1967; relevant amending instruments are S.I. 1988/663, 1988/1228, 1988/1445, 1989/534, 1989/1323, 1990/547, 1990/1776, 1991/1559, 1991/1656 and 1992/468.

Amendment of regulation 2 of the Disability Working Allowance Regulations

2. In regulation 2(1) of the Disability Working Allowance Regulations (interpretation)—
- (a) after the definition of “lone parent” there shall be inserted the following definition—
- ““lower rate” where it relates to rates of tax has the same meaning as in the Income and Corporation Taxes Act 1988(6) by virtue of section 832(1) of that Act;”
- (b) after the definition of “the Macfarlane Trust” there shall be inserted the following definition—
- ““training allowance” means an allowance (whether by way of periodical grants or otherwise) payable—
- (a) out of public funds by a Government department or by or on behalf of the Secretary of State, Scottish Enterprise or Highlands and Islands Enterprise;
- (b) to a person for his maintenance or in respect of a member of his family; and
- (c) for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of the Secretary of State, Scottish Enterprise or Highlands and Islands Enterprise,
- but it does not include an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education, other than an allowance paid pursuant to arrangements made under section 2 of the Employment and Training Act 1973(7), or that he is training as a teacher;”

Schedule of amendments relating to Disability Working Allowance

3. The Schedule to these Regulations, which contains minor and miscellaneous amendments to the Disability Working Allowance Regulations, shall have effect.

Amendment of regulation 2 of the Family Credit Regulations

4. In regulation 2(1) of the Family Credit Regulations (interpretation) after the definition of “employed earner” there shall be inserted the following definition—
- ““lower rate” where it relates to rates of tax has the same meaning as in the Income and Corporation Taxes Act 1988(6) by virtue of section 832(1) of that Act;”

Amendment of regulation 15 of the Family Credit Regulations

5. In paragraph (2) of regulation 15 of the Family Credit Regulations (normal weekly earnings of self-employed earners)(8) the words “or by reference” to the end of the paragraph shall be omitted.

Amendment of regulation 20 of the Family Credit Regulations

6. In regulation 20(4)(a) of the Family Credit Regulations (calculation of net earnings of employed earners)—

(6) 1988 c. 1; the definition of “lower rate” was added by the Finance Act 1992 (c. 20), section 9(9).
 (7) 1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19).
 (6) 1988 c. 1; the definition of “lower rate” was added by the Finance Act 1992 (c. 20), section 9(9).
 (8) Relevant amending instrument is S.I. 1988/1970.

- (a) for the words “the basic rate of tax” there shall be substituted the words “the lower rate or, as the case may be, the lower rate and the basic rate of tax”;
- (b) after the words “less than a year,” there shall be inserted the words “the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and”.

Amendment of regulation 20A of the Family Credit Regulations

7. In regulation 20A of the Family Credit Regulations (calculation of bonus or commission)(9)—
- (a) for the words “dividing that sum by 52, less —”, there shall be substituted the words “deducting from it —”;
 - (b) in paragraph (c) for the word “scheme.” there shall be substituted the word “scheme;”;
 - (c) at the end of the regulation there shall be added the words “and dividing the resulting sum by 52.”.

Amendment of regulation 23 of the Family Credit Regulations

8. In regulation 23(1) of the Family Credit Regulations (deduction of tax and contributions for self-employed earners)(10) —
- (a) for the words “the basic rate of tax” there shall be substituted the words “the lower rate or, as the case may be, the lower rate and the basic rate of tax”;
 - (b) after the words “less than a year,” there shall be inserted the words “the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and”.

Amendment of regulation 26 of the Family Credit Regulations

9. In regulation 26(6)(a) of the Family Credit Regulations (notional income)—
- (a) for the words “the basic rate of tax” there shall be substituted the words “the lower rate or, as the case may be, the lower rate and the basic rate of tax”;
 - (b) after the words “less than a year,” there shall be inserted the words “the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and”.

Amendment of regulation 37 of the Family Credit Regulations

10. In regulation 37 of the Family Credit Regulations (interpretation)(11) in the definition of “a course of advanced education”—
- (a) in paragraph (a) for the words “a higher national diploma of the Business & Technician Education Council” there shall be substituted the words “a higher national diploma or higher national certificate of either the Business & Technician Education Council”;
 - (b) in paragraph (b)—
 - (i) for the words “a national diploma of the Business & Technician Education Council or a national certificate of the Scottish Vocational Education Council” there shall be substituted the words “a national diploma or national certificate of either the Business & Technician Education Council or the Scottish Vocational Education Council”;
 - (ii) for the words “(higher grade)” there shall be substituted the words “(higher level)”.

(9) Regulation 20A was inserted by S.I. [1990/574](#); relevant amending instrument is S.I. [1992/573](#).

(10) Relevant amending instrument is S.I. [1988/1970](#).

(11) Relevant amending instrument is S.I. [1990/574](#).

Amendment of regulation 47 of the Family Credit Regulations

11. In regulation 47 of the Family Credit Regulations (applicable amount)(12) for the words preceding the words “for the purposes of section 20(5)(a) of the Act” there shall be substituted the words—

“Applicable amount

47.—(1) The applicable amount”.

Amendment of regulation 2 of the Income Support Regulations

12. In regulation 2(1) of the Income Support Regulations (interpretation) after the definition of “long tenancy” there shall be inserted the following definition—

““lower rate” where it relates to rates of tax has the same meaning as in the Income and Corporation Taxes Act 1988(13) by virtue of section 832(1) of that Act;”

Amendment of regulation 6 of the Income Support Regulations

13. In regulation 6 of the Income Support Regulations (persons not treated as engaged in remunerative work)(14) —

- (a) in paragraph (h) the word “or” shall be deleted;
- (b) in paragraph (j) for the words “1989” there shall be substituted the words “1989; or”;
- (c) after paragraph (j) there shall be added the following paragraph—
 - “(k) he is engaged in caring for a person who is accommodated with him by virtue of arrangements made under any of the provisions referred to in paragraph 26 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) and is in receipt of any payment specified in that paragraph.”.

Amendment of regulation 12 of the Income Support Regulations

14. In regulation 12(2) of the Income Support Regulations (relevant education)(15) —

- (a) in sub-paragraph (a) for the words “a higher national diploma of the Business & Technician Education Council” there shall be substituted the words “a higher national diploma or higher national certificate of either the Business & Technician Education Council”;
- (b) in sub-paragraph (b)—
 - (i) for the words “a national diploma of the Business & Technician Education Council or a national certificate of the Scottish Vocational Education Council” there shall be substituted the words “a national diploma or national certificate of either the Business & Technician Education Council or the Scottish Vocational Education Council”;
 - (ii) for the words “(higher grade)” there shall be substituted the words “(higher level)”.

(12) Relevant amending instrument is S.I. 1988/660.

(13) 1988 c. 1; the definition of “lower rate” was added by the Finance Act 1992 (c. 20), section 9(9).

(14) Relevant amending instruments are S.I. 1988/1445, 1991/1559 and 1992/468.

(15) Relevant amending instrument is S.I. 1990/547.

Amendment of regulation 21 of the Income Support Regulations

15.—(1) Regulation 21 of the Income Support Regulations (special cases)(**16**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3) in the definition of “residential accommodation”, for the words “paragraphs (3A) and (4)” there shall be substituted the words “paragraphs (3A), (4) and (4A)”;

(3) After paragraph (4) there shall be added the following paragraph—

“(4A) In paragraph (3), sub-paragraph (d)(i) in the definition of “residential accommodation” shall apply only to accommodation—

- (a) where no cooked or prepared food is made available to the claimant in consequence solely of his paying the charge for the accommodation or any other charge which he is required to pay as a condition of occupying the accommodation, or both of those charges, or
- (b) where such food is actually made available for his consumption on payment of a further charge or charges.”.

Amendment of regulation 37 of the Income Support Regulations

16. In regulation 37 of the Income Support Regulations (earnings of self-employed earners)(**17**) for paragraph (2) there shall be substituted the following paragraph—

“(2) “Earnings” shall not include—

- (a) where a claimant is involved in providing board and lodging accommodation for which a charge is payable, any payment by way of such a charge;
- (b) any payment to which paragraph 26 of Schedule 9 refers (payments in respect of a person accommodated with the claimant under arrangements made by a local authority or voluntary organisation).”.

Amendment of regulation 39 of the Income Support Regulations

17. In regulation 39(1) of the Income Support Regulations (deduction of tax and contributions for self-employed earners)—

- (a) for the words “the basic rate of tax” there shall be substituted the words “the lower rate or, as the case may be, the lower rate and the basic rate of tax”;
- (b) after the words “less than a year,” there shall be inserted the words “the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and”.

Amendment of regulation 42 of the Income Support Regulations

18. In regulation 42(8)(a) of the Income Support Regulations (notional income)—

- (a) for the words “the basic rate of tax” there shall be substituted the words “the lower rate or, as the case may be, the lower rate and the basic rate of tax”;
- (b) after the words “less than a year,” there shall be inserted the words “the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and”.

(16) Relevant amending instruments are S.I. 1989/534 and 1991/1656.

(17) Relevant amending instrument is S.I. 1989/1323.

Amendment of regulation 61 of the Income Support Regulations

19. In regulation 61 of the Income Support Regulations (interpretation)(**18**), in the definition of “a course of advanced education”—

- (a) in paragraph (a) for the words “a higher national diploma of the Business & Technician Education Council” there shall be substituted the words “a higher national diploma or higher national certificate of either the Business & Technician Education Council”;
- (b) in paragraph (b)—
 - (i) for the words “a national diploma of the Business & Technician Education Council or a national certificate of the Scottish Vocational Education Council” there shall be substituted the words “a national diploma or national certificate of either the Business & Technician Education Council or the Scottish Vocational Education Council”;
 - (ii) for the words “(higher grade)” there shall be substituted the words “(higher level)”.

Amendment of regulation 62 of the Income Support Regulations

20. In regulation 62 of the Income Support Regulations (calculation of grant income)(**19**) in paragraph (1) for the words “paragraph (2)” there shall be substituted the words “paragraphs (2) and (2A)”.

Amendment of Schedule 3 to the Income Support Regulations

21. In paragraph 11(8) of Schedule 3 to the Income Support Regulations (non-dependant deductions)(**20**) for the words “any attendance allowance or disability living allowance received by him” there shall be substituted the words—

- “(a) any attendance allowance or disability living allowance received by him;
- (b) any payment made under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund or the Independent Living Fund which had his income fallen to be calculated under regulation 40 (calculation of income other than earnings)(**21**) would have been disregarded under paragraph 21 of Schedule 9 (income in kind); and
- (c) any payment which had his income fallen to be calculated under regulation 40 would have been disregarded under paragraph 39 of Schedule 9 (payments made under certain trusts and certain other payments)(**22**).”.

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

Alistair Burt
Parliamentary Under-Secretary of State,
Department of Social Security

7th September 1992

(18) Relevant amending instrument is S.I. [1990/547](#).
(19) Relevant amending instruments are S.I. [1991/1559](#) and [1992/468](#).
(20) Paragraph 11(8) was inserted by S.I. [1992/50](#).
(21) Relevant amending instruments are S.I. [1988/2022](#) and [1990/1549](#).
(22) Relevant amending instruments are S.I. [1991/1175](#) and [1992/1101](#).

SCHEDULE

Regulation 3

MINOR AND MISCELLANEOUS AMENDMENTS TO THE DISABILITY WORKING ALLOWANCE REGULATIONS

1. The provisions of the Disability Working Allowance Regulations shall be further amended in accordance with the following provisions of this Schedule.

Amendment of regulation 6

2. In regulation 6 (remunerative work)—

(a) in paragraph (1) for the words from the beginning to “in remunerative work” there shall be substituted the following words—

“For the purposes of Part VII of the Social Security Contributions and Benefits Act 1992⁽²³⁾ as it applies to disability working allowance and subject to paragraph (3), a person shall be treated as engaged in remunerative work”;

(b) in paragraphs (2) and (3) the words “and normally engaged” shall be omitted;

(c) in paragraph (4)(c) for the words “of paragraph (3)” there shall be substituted the words “of this paragraph”;

(d) in paragraph (5) in sub-paragraphs (b) and (c) after the words “employer to work” there shall be inserted the words “or, where he is a self-employed earner he expects to work.”;

(e) after paragraph (6) there shall be added the following paragraph—

“(7) Where a person is treated as engaged in remunerative work in accordance with the above paragraphs, he shall also be treated as normally engaged in remunerative work.”.

Amendment of regulation 7

3. In regulation 7 (income-related benefits)—

(a) in paragraph (a) for the words “in case of” there shall be substituted the words “in the case of”;

(b) in paragraph (d) for the words “sub-paragraphs (a) to (c) above and” there shall be substituted the words “paragraphs (a) to (c) above”.

Amendment of regulation 22

4. In regulation 22(4)(a) (calculation of net earnings of employed earners)—

(a) for the words “the basic rate of tax” there shall be substituted the words “the lower rate or, as the case may be, the lower rate and the basic rate of tax”;

(b) after the words “less than a year,” there shall be inserted the words “the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and”.

Amendment of regulation 23

5. In regulation 23 (calculation of bonus or commission)—

(a) for the words “dividing that sum by 52, less —”, there shall be substituted the words “deducting from it —”;

(b) in paragraph (c) for the word “scheme.” there shall be substituted the word “scheme.”; and

(23) 1992 c. 4.

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- (c) at the end of the regulation, there shall be inserted the words “and dividing the resulting sum by 52.”.

Amendment of regulation 25

- 6. In regulation 25 (calculation of net profit of self-employed earners)—
 - (a) in paragraph (1)(b)(i) for the words “regulation 22” there shall be substituted the words “regulation 26”;
 - (b) in paragraph (4)(a) for the words “subject to paragraphs (7) to (11)” there shall be substituted the words “subject to paragraphs (7) to (10)”;
 - (c) in paragraph (5) for the word “paragraphs” on the first two occasions where it occurs there shall be substituted the word “paragraph”;
 - (d) in paragraph (6) for the words “under regulation 18(1)(b)” there shall be substituted the words “under regulation 17(1)(b) (normal weekly earnings of self-employed earners)”.

Amendment of regulation 26

- 7. In regulation 26 (deduction of tax and contributions for self-employed earners)—
 - (a) in paragraph (1)—
 - (i) for the words “the basic rate of tax” there shall be substituted the words “the lower rate or, as the case may be, the lower rate and the basic rate of tax”;
 - (ii) for the words “sections 257(1) to (3) and 259(1) and (2)” there shall be substituted the words “sections 257(1), (6) and (7) and 259”;
 - (iii) after the words “less than a year” there shall be inserted the words “, the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and”;
 - (b) in paragraph (3)(c)(ii) for the words “under paragraph (4)” there shall be substituted the words “under paragraph (5)”.

Amendment of regulation 29

8.—(1) Regulation 29 (notional income) shall be amended in accordance with the following provisions of this regulation.

- (2) In paragraph (3)—
 - (a) in sub-paragraph (a) immediately after the words “possessed by” there shall be inserted the words “that single claimant or”;
 - (b) for sub-paragraph (b) there shall be substituted the following sub-paragraph—
 - “(b) to a single claimant or a member of the family in respect of a third party (but not in respect of another member of the family) shall be treated as possessed by that single claimant or, as the case may be, that member of the family to the extent that it is kept or used by him or used by or on behalf of any member of the family.”.
- (3) In paragraph (6)(a)—
 - (a) for the words “the basic rate of tax” there shall be substituted the words “the lower rate or, as the case may be, the lower rate and the basic rate of tax”;
 - (b) after the words “less than a year,” there shall be inserted the words “the earnings to which the lower rate and, if appropriate, the basic rate of tax is to be applied and”.

Amendment of regulation 32

9. In regulation 32(1) (calculation of capital) for the words “under regulation 30” there shall be substituted the words “under regulation 34”.

Amendment of regulation 35

10. In regulation 35(a) (calculation of capital in the United Kingdom) for the word “sub-paragraph” there shall be substituted the word “paragraph”.

Amendment of regulation 37

11. In regulation 37(1) (notional capital) the words “Subject to regulation 38,” shall be omitted.

Amendment of regulation 41

12. In regulation 41 (interpretation)—

(a) in the definition of “a course of advanced education”—

(i) in paragraph (a) for the words “a higher national diploma of the Business & Technician Education Council” there shall be substituted the words “a higher national diploma or higher national certificate of either the Business & Technician Education Council”;

(ii) in paragraph (b) for the words “a national diploma of the Business & Technician Education Council or a national certificate of the Scottish Vocational Education Council” there shall be substituted the words “a national diploma or national certificate of either the Business & Technician Education Council or the Scottish Vocational Education Council”;

(b) in the definition of “student” for the words from the beginning to “course of study” there shall be substituted the following words—

““student” means a person, other than a person in receipt of a training allowance, who is aged less than 19 and attending a full-time course of advanced education or, as the case may be, who is aged 19 or over and attending a full-time course of study”.

Amendment of regulation 42

13. In regulation 42 (calculation of grant income)—

(a) in paragraph (1) for the words “paragraph (2)” there shall be substituted the words “paragraphs (2) and (2A)”;

(b) after paragraph (2) there shall be inserted the following paragraph—

“(2A) Where in pursuance of an award a student is in receipt of a grant in respect of maintenance under regulation 17(b) of the Education (Mandatory Awards) Regulations 1991⁽²⁴⁾ (payments), there shall be excluded from his grant income a sum equal to the amount specified in paragraph 7(4) of Schedule 2 to those Regulations (disregard of travel costs), being the amount to be disregarded in respect of travel costs in the particular circumstances of his case.”.

Amendment of regulation 43

14. In regulation 43(3) (calculation of covenant income where a contribution is assessed) for the words from “regulation 42(2)(f)” to the end there shall be substituted the following words—

(24) S.I. 1991/1838.

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“regulation 42(2)(f) (calculation of grant income) falls short of the amount specified in paragraph 7(4)(i) of Schedule 2 to the Education (Mandatory Awards) Regulations 1991 (travel expenditure).”.

Amendment of regulation 44

15. In regulation 44 (covenant income where no grant income or no contribution is assessed) in paragraphs (1)(b) and (2)(b) for the words “under regulation 42(2)(e)” there shall be substituted the words “under regulation 42(2)(e) and (f) and (2A)”.

Amendment of regulation 50

16. In regulation 50 (disregard of changes occurring during summer vacation) for the words “period of study;” there shall be substituted the words “period of study;”.

Amendment of regulation 51

17. In regulation 51(5) (determination of appropriate maximum disability working allowance) for the words “in accordance with Part VI” there shall be substituted the words “in accordance with Part V”.

Amendment of regulation 52

18. In regulation 52 (applicable amount) for the words preceding the words “for the purposes of section 20(6A) of the Act”, there shall be substituted the words—

“Applicable amount

52.—(1) The applicable amount”.

Amendment of Schedule 4

19. In Schedule 4 (capital to be disregarded) in paragraph 18 for the words “section 17(b) or 24(7)” there shall be substituted the words “section 17 or 24”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Disability Working Allowance (General) Regulations 1991 (S.I.1991/2887) and further amendments to the Family Credit (General) Regulations 1987 (S.I. 1987/1973) and the Income Support (General) Regulations 1987 (S.I. 1987/1967). In particular, they—

- (a) provide for the calculation of the amount to be deducted in respect of income tax in relation to a claimant’s earnings to include the lower rate of income tax and define “lower rate” (regulations 2, 4, 6, 8, 9, 12, 17 and 18, and paragraphs 4, 7, and 8 of the Schedule);

- (b) amend the definition of “advanced education” in the provisions relating to relevant education and to students (regulations 10, 14 and 19, and paragraph 12 of the Schedule);

With respect to the Disability Working Allowance (General) Regulations 1991, they—

- (a) provide a definition of the expression “training allowance” (regulation 2); and
- (b) make a number of minor drafting changes (regulation 3 and the Schedule);

With respect to the Family Credit (General) Regulations 1987, they—

- (a) amend the provisions for calculating the estimated earnings of self-employed earners (regulation 5) by deleting the reference to “other evidence” in regulation 15(2);
- (b) make minor amendments to certain provisions (regulations 7 and 11) relating to the method of calculating bonus or commission and to the applicable amount;

With respect to the Income Support (General) Regulations 1987, they—

- (a) provide that foster parents are not to be treated as in remunerative work solely because they receive payments for fostering a child (regulation 13);
- (b) further define the circumstances in which payments in respect of certain types of accommodation are included in applicable amounts (regulation 15);
- (c) provide that specified payments to foster parents are not to be treated as earnings (regulation 16);
- (d) make minor drafting changes to regulation 62 which relates to the calculation of grant income (regulation 20);
- (e) amend the provisions for calculating the income of a non-dependant by providing a disregard of certain payments (regulation 21).