
STATUTORY INSTRUMENTS

1992 No. 468

SOCIAL SECURITY

The Income Support (General) Amendment Regulations 1992

Made - - - - 3rd March 1992
Laid before Parliament 9th March 1992
Coming into force - - 6th April 1992

The Secretary of State for Social Security, in exercise of powers conferred by sections 20(3)(a) and (d) and (12)(c), (d)(i), (f) and (k), 22(1), (8) and (9) and 84(1) of the Social Security Act 1986(1), section 166(1) to (3A) of the Social Security Act 1975(2) and section 5(1) of the Disability Living Allowance and Disability Working Allowance Act 1991(3), and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it(4), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income Support (General) Amendment Regulations 1992 and shall, subject to paragraphs (2) and (3) below, come into force on 6th April 1992.

(2) These Regulations shall come into force in relation to a 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 General Regulations.

(3) Regulation 13(1) shall come into force immediately following the coming into force of article 13 of the Social Security Benefits Up-rating (No. 2) Order 1991(5).

(4) In these Regulations “the General Regulations” means the Income Support (General) Regulations 1987(6).

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- (1) 1986 c. 50; section 20(3)(a) was amended by the Social Security Act 1988 (c. 7), section 4(1); section 84(1) is an interpretation provision and is cited because of the meanings assigned to the words "prescribed" and "regulations".
- (2) 1975 c. 14; section 166(3A) was inserted by the Social Security Act 1986, section 62; section 166(3) was amended by the Social Security Act 1989 (c. 24), Schedule 8, paragraph 10(1); section 166(1) to (3A) is applied by section 83(1) of the Social Security Act 1986.
- (3) 1991 c. 21.
- (4) See section 61(1)(b) and (10) of the Social Security Act 1986 (c. 50); the definition of “regulations” was added to section 61(10) by the Social Security Act 1989 (c. 24) Schedule 8, paragraph 12(4).
- (5) S.I. 1991/2910.
- (6) S.I. 1987/1967.

Persons not treated as engaged in remunerative work

2. In regulation 6 of the General Regulations(7)(persons not treated as engaged in remunerative work),—

- (a) at the end of both paragraph (d) and paragraph (e), the word “or” shall be omitted; and
- (b) after paragraph (g), there shall be added the following paragraphs—
 - “(h) he is engaged in any one of the employments mentioned in heads (a) to (d) of sub-paragraph (1) of paragraph 7 of Schedule 8 (which relates to persons serving as firemen, in coastal rescue activities etc); or
 - (j) he is performing his duties as a councillor, and for this purpose “councillor” has the same meaning as in paragraph 2(6) of Schedule 8 to the Social Security Act 1989(8).”.

Income Support for 16 and 17 year olds

3.—(1) Regulation 13 of the General Regulations(9) (circumstances in which persons in relevant education are to be entitled to income support) shall be amended by the inclusion, after sub-paragraph (d) of paragraph (2), of the following sub-paragraph—

- “(dd) has ceased to live in accommodation provided for him by a local authority under Part III of the Children Act 1989(10)(local authority support for children and families) and is of necessity living away from his parents and any person acting in place of his parents;”.

(2) In regulation 13A(11) of the General Regulations (persons under 18 years)—

- (a) in paragraph (4), after sub-paragraph (c), there shall be added the following sub-paragraph—

“(d) a registered person who has ceased to live in accommodation provided for him by a local authority under Part III of the Children Act 1989 (local authority support for children and families) and is of necessity living away from his parents and any person acting in place of his parents.”;

- (b) after paragraph (6), there shall be inserted the following paragraphs—

“(6A) Paragraph (4)(d) shall have effect for a period—

- (a) beginning on the day on which that paragraph first applies to that person; and
- (b) ending on the day before the day on which that person attains the age of 18 or the day at the end of a period of 8 weeks immediately following the day on which paragraph (4)(d) first had effect in relation to him, whichever is the earlier.

(6B) The period mentioned in paragraph (6A) may include any week in which regulation 7 of the Child Benefit (General) Regulations 1976(12) (circumstances in which a person who has ceased to receive full-time education is to continue to be treated as a child) also applies to that person.”;

- (c) after paragraph (7), there shall be added the following paragraph—

“(8) In this regulation, any reference to a person acting in place of a registered person’s parents has the same meaning as it has in Schedule 1A by virtue of paragraph 10 of that Schedule.”.

(7) Regulation 6 is amended by S.I. 1988/663, 1445, 1991/1559.

(8) 1989 c. 24.

(9) Regulation 13 is amended by S.I. 1989/1034, 1991/236, 1559.

(10) 1989 c. 41.

(11) Regulation 13A was inserted by S.I. 1988/1228, regulation 4; the relevant amending instrument is S.I. 1991/236.

(12) S.I. 1976/965; the relevant amending instruments are S.I. 1980/1045, 1982/470, 1987/357, 1988/1227.

Notional income

4. In regulation 42 of the General Regulations (notional income)(**13**) in paragraph (2), after sub-paragraph (d), there shall be inserted the following sub-paragraphs—

- “(e) family credit;
- (f) disability working allowance.”.

Students awards

5.—(1) In regulation 61 of the General Regulations(**14**)(interpretation), in the definition of “student”, for the words ““student” means a person”, there shall be substituted the words ““student” means a person, other than a person in receipt of a training allowance.”.

(2) In regulation 62 of the General Regulations(**15**)(calculation of grant income)—

(a) 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(**16**), there shall be excluded from his grant income a sum equal to the amount from time to time specified in paragraph 7(4) of Schedule 2 to those Regulations, being the amount to be disregarded in respect of travel costs in the particular circumstances of his case”.

(b) in paragraph (3), for the words “Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 1987(**17**)”, there shall be substituted the words “Part 3 of Schedule 2 to the Education (Mandatory Awards) Regulations 1991”.

(3) In paragraph (3) of regulation 63 of the General Regulations (calculation of covenant income where a contribution is assessed) for the words from “regulation 62(2)(h)” to the end of the paragraph, there shall be substituted the following words—

“regulation 62(2)(h) (calculation of grant income) falls short of the amount for the time being specified in paragraph 7(4)(i) of Schedule 2 to the Education (Mandatory Awards) Regulations 1991 (travel expenditure).”.

(4) In regulation 64 of the General Regulations (covenant income where no grant income or no contribution is assessed) for the words “regulation 62(2)(g) and (h)”, wherever they occur, there shall be substituted the words “regulation 62(2)(g) and (h) and (2A)”.

Amendment of Schedule 2

6. Schedule 2 to the General Regulations(**18**)(higher pensioner premium) shall be amended by the omission from paragraph 10(2)(b)(i) of the words “by whichever of them is aged not less than 60”.

Amendment of Schedule 8

7. In paragraph 15 of Schedule 8 to the General Regulations(**19**)(sums to be disregarded in the calculation of earnings) for the words “In the case of earnings of a person treated as receiving relevant education under regulation 12(b) (relevant education) and”, there shall be substituted the words “In

(13) Regulation 42 is amended by S.I. [1988/663](#), [1445](#), [1989/534](#), [1990/127](#), [1991/1175](#), [1559](#).

(14) The relevant amending instrument is S.I. [1991/1559](#).

(15) The relevant amending instruments are S.I. [1988/663](#) and [1991/1559](#).

(16) S.I. [1991/1838](#).

(17) S.I. [1987/1261](#).

(18) The relevant amending instrument is S.I. [1988/663](#).

(19) The relevant amending instrument is S.I. [1989/534](#).

the case of earnings of a child or young person who although not receiving full-time education for the purposes of section 2 of the Child Benefit Act 1975(20)(meaning of “child”) is nonetheless treated for the purposes of these Regulations as receiving relevant education and”.

Amendment of Schedule 9

8.—(1) Schedule 9 to the General Regulations(21)(sums to be disregarded in the calculation of income other than earnings) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph 31 (social fund payments) there shall be substituted the following paragraph—

“**31.** Any social fund payment made pursuant to Part III of the Act.”.

(3) Immediately following paragraph 50, there shall be added the following paragraph—

“**51.** Any payment (other than a training allowance) made, whether by the Secretary of State or by any other person, under the Disabled Persons (Employment) Act 1944(22) or in accordance with arrangements made under section 2 of the Employment and Training Act 1973(23) to assist disabled persons to obtain or retain employment despite their disability.”.

Amendment of Schedule 10

9.—(1) Schedule 10 to the General Regulations(24)(capital to be disregarded) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph 18 (social fund payments) there shall be substituted the following paragraph—

“**18.** Any social fund payment made pursuant to Part III of the Act.”.

(3) Immediately following paragraph 41, there shall be added the following paragraphs—

“**42.** Any payment (other than a training allowance, or a training bonus under section 2 of the Employment and Training Act 1973(25)) made, whether by the Secretary of State or by any other person, under the Disabled Persons (Employment) Act 1944(26) or in accordance with arrangements made under section 2 of the Employment and Training Act 1973 to assist disabled persons to obtain or retain employment despite their disability.

43. Any payment made by a local authority under section 3 of the Disabled Persons (Employment) Act 1958(27) to homeworkers assisted under the Blind Homeworkers' Scheme.”.

Saving provision for children and young persons working 16 or more, but less than 24, hours a week

10.—(1) Paragraph (2) below shall apply subject to paragraph (3) below where in the benefit week which in relation to a particular claimant commences on or after 7th April but before 14th April 1992, a child or young person in respect of whom a sum is brought into account in determining the claimant’s applicable amount would but for this regulation—

(20) 1975 c. 61; section 2 is amended by the Social Security Act 1980 (c. 30), Schedule 5, Part I; the Social Security Act 1986 (c. 50), section 70(1), and the Social Security Act 1988 (c. 7), section 4(3).

(21) The relevant amending instrument is S.I. 1990/1776.

(22) 1944 c. 10.

(23) 1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 9).

(24) The relevant amending instrument is S.I. 1990/1776.

(25) 1973 c. 50; section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19).

(26) 1944 c. 10.

(27) 1958 c. 33.

- (a) be engaged in remunerative work by reason of the fact that the work in which he is engaged, or where his hours of work fluctuate, in which he is engaged on average, amounts to 16 or more but less than 24 hours a week, being work for which payment is made or which is done in expectation of payment; and
- (b) have earnings from that work which fall to be disregarded in accordance with regulation 44(6) of and paragraph 15 of Schedule 8 to the General Regulations.

(2) Where this paragraph applies, regulation 5(1) of the General Regulations(28) (persons treated as engaged in remunerative work) shall have effect in relation to the child or young person mentioned in paragraph (1) above as if for the reference to 16 hours there was substituted a reference to 24 hours; so however that this paragraph shall not apply in relation to him on any day on which he is neither a child nor a young person.

(3) Paragraph (2) above shall not apply where, in relation to the particular claimant, the benefit week mentioned in paragraph (1) above is his first benefit week pursuant to his claim.

(4) In this regulation, the expression “young person” has the same meaning as it has in the General Regulations (by virtue of regulation 14).

Introduction of disability living allowance

11.—(1) Any payment of disability living allowance made pursuant to the Social Security Act 1975(29) which, in accordance with regulation 31 of the General Regulations(30) is treated as paid on a day before this regulation comes into force, shall be treated for the purposes of Parts V and VI of those Regulations (which contain provisions for the calculation of income and capital)—

- (a) as a payment of mobility allowance, to the extent that it consists of mobility component; and
- (b) as a payment of attendance allowance, to the extent that it consists of care component.

(2) Where—

- (a) on or after the date this regulation comes into force a payment falls to be made and that payment includes an amount in respect both of disability living allowance and of attendance allowance, mobility allowance or both (“the former benefits”); and
- (b) payment of disability living allowance and the former benefits would but for this regulation be regarded, pursuant to regulation 29(2) of the General Regulations as being made for concurrent periods commencing on the same day,

then that regulation shall have effect as if the payment falling to be made consisted solely of disability living allowance.

(3) In this regulation—

- (a) attendance allowance means an attendance allowance under section 35 of the Social Security Act 1975(31);
- (b) mobility allowance means an allowance under section 37A of that Act(32);
- (c) disability living allowance means an allowance under section 37ZA of that Act(33); and
- (d) any reference to the day the regulation comes into force is a reference to the day determined, in the particular case, in accordance with regulation 1(2) above.

(28) Regulation 5(1) is amended by S.I. 1991/1559 as from 7.4.92.

(29) 1975 c. 14; disability living allowance was introduced by the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 5), section 1.

(30) The relevant amending instruments are S.I. 1988/663 and 1445.

(31) 1975 c. 14.

(32) Section 37A was inserted by the Social Security Pensions Act 1975 (c. 60), section 22(1).

(33) Section 37ZA was inserted by the Disability Living Allowance and Disability Working Allowance Act 1991 (c. 5), section 1.

Amendments consequential upon the Children Act 1989

12. The Schedule to these Regulations, which makes changes to the General Regulations consequential upon the Children Act 1989⁽³⁴⁾, shall have effect.

Revocations

13.—(1) In Schedule 7 to the General Regulations (applicable amounts in special cases), in column (2) of head (iii) of sub-paragraph (b) of paragraph 18, the following words are hereby revoked, namely—

“where one or more children or young persons are also patients and have been so for more than 12 weeks, in respect of those children and young persons and the member of the couple or polygamous marriage who has been a patient for more than six weeks no amount shall be applicable in respect of him under paragraph 2(2) of Schedule 4 and for the amount in respect of the allowance for personal expenses prescribed by paragraph 13 of Schedule 4 there shall be substituted the amount of £13.55;”.

(2) Regulation 5 of the Income Support (General) Amendment No. 4 Regulations 1991⁽³⁵⁾ (which provides for employment to include work in which a person is engaged for 16, rather than 24 hours, a week) is hereby revoked.

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

3rd March 1992

Nicholas Scott,
Minister of State,
Department of Social Security

⁽³⁴⁾ 1989 c. 41.

⁽³⁵⁾ S.I. 1991/1559.

SCHEDULE

Regulation 12

AMENDMENTS MADE CONSEQUENTIAL UPON THE CHILDREN ACT 1989

1. The provisions of the General Regulations shall be further amended in accordance with the paragraphs below, which make amendments consequential upon the Children Act 1989.**(36)**

2. In paragraph (3) of regulation 13**(37)**(circumstances in which persons in relevant education are to be entitled to income support) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

- “(a) any reference to a person acting in the place of an eligible person’s parents includes—
- (i) for the purposes of paragraph (2)(c), (d) and (dd), a reference to a local authority or voluntary organisation where the eligible person is being looked after by them under a relevant enactment or where the eligible person is placed by the local authority or voluntary organisation with another person, that other person, whether or not a payment is made to him;
 - (ii) for the purposes of paragraph (2)(e), the person with whom the person is so placed.”.

3. In regulation 16**(38)**(circumstances in which a person is to be treated as being or not being a member of the household)—

(a) in paragraph (4), for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

- “(a) placed with the claimant or his partner by a local authority under section 23(2) (a) of the Children Act 1989 or by a voluntary organisation under section 59(1) (a) of that Act; or
- (b) placed with the claimant or his partner prior to adoption; or”;

(b) in paragraph (5), for sub-paragraphs (c) and (d) there shall be substituted the following sub-paragraphs—

- “(c) is being looked after by a local authority under a relevant enactment; or
- (d) has been placed with a person other than the claimant prior to adoption; or”;

(c) in paragraph (8)—

(i) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

- “(a) “relevant enactment” means the Army Act 1955**(39)**, the Social Work (Scotland) Act 1968**(40)**, the Matrimonial Causes Act 1973**(41)**, the Adoption (Scotland) Act 1978**(42)**, the Family Law Act 1986**(43)** and the Children Act 1989**(44)**

(ii) in sub-paragraph (b), for the words “Child Care Act 1980” there shall be substituted the words “Children Act 1989”.

(36) 1989 c. 41.

(37) The relevant amending instrument is S.I. 1991/1559.

(38) The relevant amending instruments are S.I. 1988/663, 1989/534, 1990/547.

(39) 1955 c. 18. The provisions relating to reception orders were repealed as from 1st January 1992 by the Armed Forces Act 1991 (c. 62) but with savings (articles 2 and 3(1) of S.I. 1991/2719).

(40) 1968 c. 49.

(41) 1973 c. 18.

(42) 1978 c. 28.

(43) 1986 c. 55.

(44) 1989 c. 41.

Status: This is the original version (as it was originally made).

4. In regulation 41(45)(capital treated as income) in paragraph (3), for the words “section 1, 27 or 29 of the Child Care Act 1980” there shall be substituted the words “section 17 or 24 of the Children Act 1989”.

5. In regulation 48(46)(income treated as capital), for paragraph (8) there shall be substituted the following paragraph—

“(8) Any payment made by a local authority which represents arrears of payments under 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) shall be treated as capital.”.

6. In Schedule 1 (persons not required to be available for employment) in paragraph 2, for the words “is boarded out” there shall be substituted the words “is placed” and for the words “Child Care Act 1980” there shall be substituted the words “Children Act 1989”.

7. In Schedule 1A(47)(circumstances in which a person aged 16 or 17 is eligible for income support)—

(a) in paragraph 7, in sub-paragraph (b) for the words “was in the care of a local authority under a relevant enactment and whilst in that care was not living with his parents or any close relative” there shall be substituted the words “was being looked after by a local authority pursuant to a relevant enactment who placed him with some person other than a close relative of his”;

(b) in paragraph 10, for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) any reference to a person acting in place of a registered person’s parents includes a reference—

(i) except in a case to which head (ii) applies, to any person with parental responsibility for the child, and for this purpose “parental responsibility” bears the meaning it has in the Children Act 1989 by virtue of section 3 of that Act; or

(ii) where the person is being looked after by a local authority or voluntary organisation who place him with a family, a relative of his, or some other suitable person, the person with whom the person is placed, whether or not any payment is made to him in connection with the placement; and”.

8. In Schedule 4 (applicable amounts of persons in residential care or nursing homes)—

(a) in paragraph 12(2)(d)(ii) for the words “section 1 of the Child Care Act 1980 (duty of local authorities to promote welfare of children)” there shall be substituted the words “section 20 of the Children Act 1989(48)(provision of accommodation for children: general)”;

(b) in paragraph 17, for the words “who is in the care of a local authority” there shall be substituted the words “who is being looked after by a local authority”.

9. In Schedule 9(49)(sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 25, in sub-paragraph (1) for heads (a) and (b) there shall be substituted the following heads—

(45) The relevant amending instruments are S.I. 1988/663, 1989/1034.

(46) There are no relevant amendments to paragraph (8).

(47) Schedule 1A was inserted by S.I. 1988/1228, and amended by S.I. 1989/1034, 1990/547, 1991/236, 1559.

(48) 1989 c. 41.

(49) The relevant amending instruments are S.I. 1988/663, 1445, 1989/1034.

- “(a) in accordance with regulations made pursuant to section 57A of the Adoption Act 1976⁽⁵⁰⁾(permitted allowances) or with a scheme approved by the Secretary of State under section 51 of the Adoption (Scotland) Act 1978⁽⁵¹⁾(schemes for payment of allowances to adopters);
- (b) 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);”;
- (b) in paragraph 26—
 - (i) for the words “boarded out by virtue of arrangements made under section 21(1)(a) of the Child Care Act 1980” there shall be substituted the words “accommodated by virtue of arrangements made under section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after)”;
 - (ii) for the words “section 61 of the 1980 Act” there shall be substituted the words “section 59(1)(a) of the 1989 Act (provision of accommodation by voluntary organisations)”;
- (c) in paragraph 28, for the words “under section 1, 27 or 29 of the Child Care Act 1980” there shall be substituted the words “in accordance with section 17 or 24 of the Children Act 1989”.

10. In Schedule 10⁽⁵²⁾(capital to be disregarded) in paragraph 17, for the words “under section 1, 27 or 29 of the Child Care Act 1980”, there shall be substituted the words “in accordance with section 17 or 24 of the Children Act 1989”.

11. In so far as it is necessary to give effect in Scotland to a provision in the General Regulations amended in accordance with paragraph 2, 3, 5, 7, 8(b), 9(a) (in so far as it relates to paragraph 25(1) (b) of Schedule 9 to the General Regulations) or 9(b) of this Schedule, that provision shall have effect as if the amendment had not been made.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further amendments to the Income Support (General) Regulations 1987 (S.I.1987/1967) (“the General Regulations”).

Regulation 2 extends the list of those persons treated as not engaged in remunerative work by adding references to local authority councillors and to persons undertaking certain voluntary work to regulation 6 of the General Regulations.

Regulation 3 enables 16 and 17 year olds living independently after being looked after by a local authority to qualify for income support for a limited period if they are in full- time education or for up to 8 weeks if they are registered for work or youth training.

⁽⁵⁰⁾ 1976 c. 36; section 57A was introduced by the Children Act 1989 (c. 41), Schedule 10, paragraph 25.

⁽⁵¹⁾ 1978 c. 28.

⁽⁵²⁾ The relevant amending instruments are S.I. 1988/663 and 1989/1034.

Status: This is the original version (as it was originally made).

Regulation 4 provides that family credit and disability working allowance to which the claimant would be entitled but for his failure to make a claim shall not be taken into account in determining his resources.

Regulation 5 contains amendments consequential upon the changes introduced in the Education (Mandatory Awards) Regulations 1991 relating to the travel expenses of students.

Regulation 6 modifies the conditions of entitlement to the Higher Pensioner Premium.

Regulation 7 provides for certain earnings to be disregarded in the case of a child or young person in remunerative work while treated as receiving relevant education.

Regulation 8 provides for the disregard of sums paid to disabled persons to assist them to obtain or retain employment.

Regulation 9 provides similarly that such payments be disregarded in the calculation of a person's capital. It also provides for the disregard of payments made under the Blind Homeworkers' Scheme.

Regulation 10 provides that in the case of certain children and young persons remunerative work means work amounting to 24 or more hours a week.

Regulation 11 contains provisions arising from the replacement of mobility allowance and (in part) attendance allowance by disability living allowance.

Regulation 12 and the Schedule make changes consequential upon the Children Act 1989 (c. 41).

Regulation 13 provides for the revocation of a provision specifying the amount by way of personal expenses payable for a person in residential care or a nursing home in certain specified circumstances and of a provision amending provisions in the General Regulations relating to the meaning of employment.