

This Statutory Instrument has been amended by S.I. 1995/3282 and is being issued free of charge to all known recipients of S.I. 1995/2792.

STATUTORY INSTRUMENTS

1995 No. 2792

SOCIAL SECURITY

**The Income-related Benefits Schemes
Amendment (No. 2) Regulations 1995**

<i>Made</i>	- - - -	<i>26th October 1995</i>
<i>Laid before Parliament</i>		<i>27th October 1995</i>
<i>Coming into force</i>	- -	<i>28th October 1995</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 123(1), 136(5)(b), 137(1) and 175(1) of the Social Security Contributions and Benefits Act 1992(1), sections 134(8)(b), 139(6)(b)(2), 189(1) and 191(1) of the Social Security Administration Act 1992(3) and all other powers enabling him in that behalf, it appearing to him that by reason of the urgency of the matter it is inexpedient to consult with either the Social Security Advisory Committee(4) or with organisations appearing to him to be representative of the authorities concerned(5), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Income-related Benefits Schemes Amendment (No. 2) Regulations 1995 and shall come into force on 28th October 1995.

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- (1) 1992 (c. 4): section 137(1) is cited because of the meaning which it ascribes to the word "prescribed".
- (2) Section 139, as currently in force, was substituted by section 103 of, and paragraph 20 of Schedule 9 to the Local Government Finance Act 1992 (c. 14).
- (3) 1992 (c. 5): section 191(1) is cited because of the meaning which it ascribes to the word "prescribe".
- (4) See section 173(1)(a) of the Social Security Administration Act 1992 as to the Secretary of State's power to make regulations without consulting the Social Security Advisory Committee in cases of urgency.
- (5) See section 176(2)(a) of the Social Security Administration Act 1992 (as amended by section 103 of, and paragraph 23 of Schedule 9 to, the Local Government Finance Act 1992 (c. 14)) for the Secretary of State's power to make regulations relating to housing benefit and council tax benefit without consulting organisations appearing to him to be representative of authorities concerned with those benefits in cases of urgency.

Amendment of the Council Tax Benefit (General) Regulations 1992

2. For paragraph 14 of Schedule 4 to the Council Tax Benefit (General) Regulations 1992(6) (sums to be disregarded in the calculation of income other than earnings) there shall be substituted the following paragraph—

“14. Subject to paragraph 34, £10 of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 7 or 8);
- (b) a war widow’s pension;
- (c) a pension payable to a person as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983(7) insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865(8), or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977(9) and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a payment made to compensate for the non-payment of such a pension as is mentioned in any of the preceding sub-paragraphs;
- (e) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions mentioned in sub-paragraphs (a) to (c) above;
- (f) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.”

Amendment of the Disability Working Allowance (General) Regulations 1991

3. For paragraph 14 of Schedule 3 to the Disability Working Allowance (General) Regulations 1991(10) (sums to be disregarded in the calculation of income other than earnings) there shall be substituted the following paragraph—

“14. Subject to paragraph 29, £10 of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 8 or 9);
- (b) a war widow’s pension;
- (c) a pension payable to a person as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;

(6) S.I. 1992/1814: paragraph 14 was amended by S.I. 1993/2118.

(7) S.I. 1983/883: relevant amending instruments are S.I. 1993/598 and 1994/1906. The Order needs to be read subject to the provisions of section 168 of the Pensions Act 1995 (c. 26), the effect of which is to disregard subsequent marriages which have been dissolved or been the subject of a decree of judicial separation, in determining a person’s entitlement to a widow’s pension.

(8) 28&29 Vict. c.73.

(9) 1977 c. 5.

(10) S.I. 1991/2887: paragraph 14 was amended by S.I. 1993/2119.

- (d) a payment made to compensate for the non-payment of such a pension as is mentioned in any of the preceding sub-paragraphs;
- (e) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions mentioned in sub-paragraphs (a) to (c) above;
- (f) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.”.

Amendment of the Family Credit (General) Regulations 1987

4. For paragraph 14 of Schedule 2 to the Family Credit (General) Regulations 1987⁽¹¹⁾ (sums to be disregarded in the calculation of income other than earnings) there shall be substituted the following paragraph—

“14. Subject to paragraph 29, £10 of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 6 or 7);
- (b) a war widow’s pension;
- (c) a pension payable to a person as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a payment made to compensate for the non-payment of such a pension as is mentioned in any of the preceding sub-paragraphs;
- (e) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions mentioned in sub-paragraphs (a) to (c) above;
- (f) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.”.

Amendment of the Housing Benefit (General) Regulations 1987

5. For paragraph 14 of Schedule 4 to the Housing Benefit (General) Regulations 1987⁽¹²⁾ (sums to be disregarded in the calculation of income other than earnings) there shall be substituted the following paragraph—

“14. Subject to paragraph 33, £10 of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 7 or 8);
- (b) a war widow’s pension;
- (c) a pension payable to a person as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under an enactment to make

⁽¹¹⁾ S.I. 1987/1973: paragraph 14 has been amended by S.I. 1990/574, 1991/1520 and 1993/2119.

⁽¹²⁾ S.I. 1987/1971: paragraph 14 has been amended by S.I. 1990/546, 1991/1599 and 1993/2118.

- provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a payment made to compensate for the non-payment of such a pension as is mentioned in any of the preceding sub-paragraphs;
 - (e) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions mentioned in sub-paragraphs (a) to (c) above;
 - (f) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.”.

Amendment of the Income Support (General) Regulations 1987

6.—(1) The Income Support (General) Regulations 1987(**13**) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (4) of regulation 42 (notional income) for the words “or war widow’s pension,” there shall be substituted the words “, war widow’s pension or a pension payable to a person as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown,”.

(3) For paragraph 16 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) there shall be substituted the following paragraph—

“**16.** Subject to paragraphs 36 and 37, £10 of any of the following, namely—

- (a) a war disablement pension (except insofar as such a pension falls to be disregarded under paragraph 8 or 9);
- (b) a war widow’s pension;
- (c) a pension payable to a person as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown;
- (d) a payment made to compensate for the non-payment of such a pension as is mentioned in any of the preceding sub-paragraphs;
- (e) a pension paid by the government of a country outside Great Britain which is analogous to any of the pensions mentioned in sub-paragraphs (a) to (c) above;
- (f) a pension paid to victims of National Socialist persecution under any special provision made by the law of the Federal Republic of Germany, or any part of it, or of the Republic of Austria.”.

(13) S.I. 1987/1967: relevant amending instruments are S.I. 1988/1445, 1990/127 and 547, 1991/1559, 1992/1101, 1993/315, 963, 1249 and 2119.

Power to modify housing benefit schemes

7. An authority may modify the housing benefit scheme administered by the authority so as to provide for disregarding, in determining a woman's income (whether she is the occupier of a dwelling or any other person whose income falls to be aggregated with that of the occupier of a dwelling), the whole or any part of a pension payable to her as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown, to the extent that such a pension does not fall to be disregarded by virtue of paragraph 14 of Schedule 4 to the Housing Benefit (General) Regulations 1987⁽¹⁴⁾.

Power to modify council tax benefit schemes

8. A billing or levying authority may modify the council tax benefit scheme administered by the authority so as to provide for disregarding, in determining a woman's income, the whole or any part of a pension payable to her as a widow under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 insofar as that Order is made under the Naval and Marine Pay and Pensions Act 1865, or is made only under section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 and any power of Her Majesty otherwise than under an enactment to make provision about pensions for or in respect of persons who have been disabled or have died in consequence of service as members of the armed forces of the Crown, to the extent that such a pension does not fall to be disregarded by virtue of paragraph 14 of Schedule 4 to the Council Tax Benefit (General) Regulations 1992⁽¹⁵⁾.

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

26th October 1995

Roger Evans
Parliamentary Under-Secretary of State,
Department of Social Security

(14) See regulation 5 above.

(15) See regulation 2 above.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Council Tax Benefit (General) Regulations 1992, (S.I. 1992/1814), the Disability Working Allowance (General) Regulations 1991 (S.I. 1991/2887), the Family Credit (General) Regulations 1987 (S.I. 1987/1973), the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) and the Income Support (General) Regulations 1987 (S.I. 1987/1967), so as to secure uniformity of treatment, in respect of those benefits, of pensions payable to women in respect of their being, or having been, widows of members of the Royal Navy, the Army or the Royal Air Force under the Naval, Military and Air Forces Etc. (Disablement and Death) Service Pensions Order 1983 (S.I. 1983/883) (*regulations 2 to 6*).

The Regulations also empower local authorities to modify their council tax benefit and housing benefit schemes so as to disregard pensions payable under that Order to women by reason of their being, or having been, widows of members of the Royal Navy or the Army to the extent that they are not required to be disregarded by paragraph 14 of Schedule 4 to either the Council Tax Benefit (General) Regulations 1992 or the Housing Benefit (General) Regulations 1987 (*regulations 7 and 8*).

These Regulations do not impose any costs on business.