

1996 No. 1944

SOCIAL SECURITY

The Income-related Benefits Schemes and Social Fund
(Miscellaneous Amendments) Regulations 1996

Made - - - - 23rd July 1996
Laid before Parliament 29th July 1996
Coming into force in accordance with regulation 1(1)

The Secretary of State for Social Security, in exercise of powers conferred on him by section 123(1), 128(3), 129(6), 130(5), 131(3)(b), 135(1), 136(3) to (5), 137(1) and (2)(a), (d), (i) and (1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992 (a), sections 63, 78(2), 189(1) and (3) to (5) and 191 of the Social Security Administration Act 1992(b), sections 36(1) and 40(1) of the Jobseekers Act 1995(c) and of all other powers enabling him in that behalf, after consultation in respect of regulation 2, 5, 7, 10, 11 and, in so far as they affect council tax benefit and housing benefit, regulation 13 and the Schedule, with organisations appearing to him to be representative of the authorities concerned(d), and after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it(e), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Income-related Benefits Schemes and Social Fund (Miscellaneous Amendments) Regulations 1996 and, subject to paragraphs (2) to (4), shall come into force—

- (a) for the purposes of this regulation and regulations 2 and 5 to 13 and the Schedule, on 7th October 1996;
- (b) for the purposes of regulation 3 and 4 on 8th October 1996.

(2) Regulations 2,5(1), (2)(a) and (b) and (3) to (8), 7 and, in so far as they affect council tax benefit and housing benefit, regulation 13 and the Schedule shall come into force immediately after the Housing Benefit, Council Tax Benefit and Supply of Information (Jobseeker's Allowance) (Consequential Amendments) Regulations 1996(f) come into force.

(3) Regulations 5(2)(c) and 11 shall come into force immediately after the Housing Benefit (General) Amendment Regulations 1996(g) come into force.

(4) Regulations 6, 8, 12, and, in so far as they affect income support, regulation 13 and the Schedule shall come into force immediately after the Income Support

(a) 1992 c.4; sections 123(1)(e) and 131 were substituted by the Local Government Finance Act 1992 (c.14), sections 103, 118 and Schedule 9; section 124(1)(d) and (e) were inserted by the Jobseekers Act 1995 (c.18), Schedule 2 paragraph 30; section 137(1) is an interpretation section and is cited because of the meaning assigned to the word "prescribed".

(b) 1992 c.5; section 191 is an interpretation provision and is cited because of the meaning assigned to the word "prescribe".

(c) 1995 c.18.

(d) See the Social Security Administration Act 1992 (c.5), section 176(1).

(e) See section 173(1)(b) of the Social Security Administration Act 1992 (c.4); section 173(7) defines "regulations".

(f) S.I. 1996/1510.

(g) S.I. 1996/965.

**INCOME-RELATED BENEFITS SCHEMES AND SOCIAL FUND
(MISCELLANEOUS AMENDMENTS) REGULATIONS 1996**

(General) (Jobseeker's Allowance Consequential Amendments) Regulations 1996(a) come into force.

(5) Regulations 3, 4 and, in so far as they affect income support, regulation 13 and the Schedule shall have effect in relation to any particular claimant, where a claimant has an award of disability working allowance or family credit which is current on 7th October 1996, on the day following the expiration of that award.

(6) Regulations 6, 8, 12 and, in so far as they affect income support, regulation 13 and the Schedule 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 7th October 1996 which applies in his case.

(7) In paragraph (6) above and regulation 8(1)(e) (transitional provision for income support) "benefit week" shall have the same meaning as in the Income Support Regulations and in paragraph (6) above "claimant" shall have the same meaning as in those Regulations.

(8) In these Regulations-

"the Council Tax Benefit Regulations" means the Council Tax Benefit (General) Regulations 1992 (b)

"the Disability Working Allowance Regulations" means the Disability Working Allowance(General) Regulations 1991 (c);

"earnings top-up" means the allowance paid by the Secretary of State under the Earnings Top-up Scheme;

"the Earnings top-up scheme" means the Earnings Top-up Scheme 1996(d);

"the Family Credit Regulations" means the Family Credit (General) Regulations 1987(e);

"the Housing Benefit Regulations" means the Housing Benefit (General) Regulations 1987(f);

"the Income Support Regulations" means the Income Support (General) Regulations 1987(g).

(9) In this regulation, unless the context otherwise requires, a reference to a numbered regulation or Schedule is to the regulation is these Regulations bearing that number or to the Schedule to these Regulations.

[Regulation 2(1) introduces amendments to S.I. 1992/1814.]

[Regulation 2(2) amends regulation 2(1) of S.I. 1996/1814.]

[Regulation 2(3) amends regulation 4A of S.I. 1996/1914.]

[Regulation 2(4) amends regulation 35(3) (e) of S.I. 1996/1814.]

[Regulation 2(5) amends regulation 38 of S.I. 1996/1814.]

[Regulation 2(6) amends regulation 40 of S.I. 1996/1814.]

[Regulation 2(7) amends regulation 42(2) of S.I. 1996/1814.]

[Regulation 2(8) amends regulation 43(1) of S.I. 1996/1814.]

(a) S.I. 1996/206.

(b) S.I. 1992/1814; relevant amending instruments S.I. 1993/688, 1994/470, 578, 1807, 1995/626 and 1742.

(c) S.I. 1991/2887; relevant amending instruments S.I. 1994/2139 and 1995/516.

(d) This Scheme, which applies only in certain areas of Great Britain, is an extra-statutory Scheme introduced by the Secretary of State for Social Security having effect on 8th October 1996. Copies of the rules of the Scheme may be obtained from the Customer Services Manager, Earnings Top-up, Norcross, Blackpool FY5 3TA and will be available for inspection at the Department of Social Security, 9th Floor Adelphi, 1-11 John Adam Street, London WC2N 6HT and offices of the Benefits Agency and Employment Job Centres which serve the areas specified in Schedule 1 to the Scheme.

(e) S.I. 1987/1973; relevant amending instrument S.I. 1995/206.

(f) S.I. 1987/1971; relevant amending instruments S.I. 1988/1917, 1990/1549, 1991/235, 1599, 1992/432, 1994/470, 578, 1807, 2137, 1995/1742 and 1996/206.

(g) S.I. 1987/1967; relevant amending instruments S.I. 1988/663, 1989/1678, 1990/1549, 1991/387, 1559, 1776, 2742, 1992/468, 2155, 1993/315, 2119, 1994/1807, 1995/482, 1613, 1742, 2303 and 1996/206.

- [Regulation 2(9) deletes regulation 44(1) (d) of S.I. 1996/1814.]
- [Regulation 3(1) introduces amendments to S.I. 1991/2887.]
- [Regulation 3(2) amends regulation 16(7) (b) of S.I. 1991/2887.]
- [Regulation 3(3) amends regulation 56(2) of S.I. 1991/2887.]
- [Regulation 4(1) introduces amendments to S.I. 1987/1973.]
- [Regulation 4(2) amends regulation 38(2) of S.I. 1987/1973.]
- [Regulation 4(3) amends regulation 51(2) of S.I. 1987/1973.]
- [Regulation 5(1) introduces amendments to S.I. 1987/1971.]
- [Regulation 5(2) amends regulation 2(1) of S.I. 1987/1971.]
- [Regulation 5(3) amends regulation 7A of S.I. 1987/1971.]
- [Regulation 5(4) amends regulation 43A(8) of S.I. 1987/1971.]
- [Regulation 5(5) amends regulation 46 of S.I. 1987/1971.]
- [Regulation 5(6) amends regulation 53(2) of S.I. 1987/1971.]
- [Regulation 5(7) amends regulation 54(1) of S.I. 1987/1971.]
- [Regulation 5(8) deletes regulation 55(1) (d) of S.I. 1987/1971.]
- [Regulation 6(1) introduces amendments to S.I. 1987/1967.]
- [Regulation 6(2) amends regulation 2 of S.I. 1987/1967.]
- [Regulation 6(3) amends regulation 4(2) (c) (iv) of S.I. 1987/1967.]
- [Regulation 6(4) amends regulation 5 of S.I. 1987/1967.]
- [Regulation 6(5) substitutes regulation 16 (3) (b) of S.I. 1987.1967.]
- [Regulation 6(6) amends regulation 21(3) of S.I. 1987/1967.]
- [Regulation 6(7) amends regulation 60D of S.I. 1987/1967.]
- [Regulation 6(8) amends regulation 61 of S.I. 1987/1967.]
- [Regulation 6(9) amends regulation 62(2) of S.I. 1987/1967.]
- [Regulation 6(10) amends Schedule 3 to S.I. 1987/1967.]
- [Regulation 6(11) amends Schedule 8 to S.I. 1987/1967.]

Transitional provision for council tax benefit and housing benefit

- 7.—(1) This paragraph applies in the case of a person who—
- (a) on 31st July 1996 is attending or undertaking a course of study, within the meaning of paragraph (3);
 - (b) is entitled to council tax benefit in respect of that date; and
 - (c) remains continuously entitled to the benefit concerned from 31st July to 7th October 1996.
- (2) Subject to paragraph (3), a person to whom paragraph (1) applies who—
- (a) continues to attend the course of study referred to in paragraph (1)(a) on 7th October 1996; and
 - (b) otherwise satisfies the conditions of entitlement to benefit concerned, shall continue to be entitled to that benefit until the last day of the course or until he abandons or is dismissed from the course.

(3) Where a person to whom paragraph (1) applies also satisfies the conditions specified in paragraph (2)(a) and (b) in respect of an award of council tax benefit or housing benefit as the case may be, if he then ceases for a period of 12 weeks or less to be entitled to housing benefit or council tax benefit but continues to

**INCOME-RELATED BENEFITS SCHEMES AND SOCIAL FUND
(MISCELLANEOUS AMENDMENTS) REGULATIONS 1996**

satisfy the condition in paragraph (2)(a) throughout that period, for the purposes of paragraph (2) he shall be treated, on becoming re-entitled to the benefit concerned, as if he had been continuously entitled to that benefit throughout that period.

(4) In this regulation—

“course of study” means a course which—

- (a) is funded in whole or in part by the FEFC and involves more than 16 guided learning hours per week for the student in question, according to the number of guided learning hours per week for that student set out in the case of a course funded by the FEFC for England, in his learning agreement signed on behalf of the establishment which is funded by the FEFC for the delivery of that course or, in the case of a course funded by the FEFC for Wales, in a document signed on behalf of the establishment which is funded by the FEFC for the delivery of that course; or
- (b) is not higher education within the meaning of Part II of the Further and Higher Education (Scotland) Act 1992 and is funded in whole or in part by the Secretary of State for Scotland at a college of further education and involves—
 - (i) more than 16 hours per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff according to the number of hours set out in a document signed on behalf of the college; or
 - (ii) 16 hours or less per week of classroom-based or workshop-based programmed learning under the direct guidance of teaching staff and it involves additional hours using structured learning packages supported by the teaching staff where the combined total of hours exceeds 21 hours per week according to the number of hours set out in a document signed on behalf of the college;

“the FEFC” means the Further Education Funding Council for England or the Further Education Funding Council for Wales.

¹Reg. 8 revoked by Sch. to S.I. 2007/2618 as from 1.10.07.

▶◀.

[Regulation 9 amends regulation 3 of S.I. 1988/35.]

[Regulation 10 amends regulation 10(6) of S.I. 1995/1644.]

[Regulation 11 amends regulation 1(3) of S.I. 1996/965.]

[Regulation 12 amends regulation 32 of S.I. 1996/206.]

Amendments consequential on the introduction of the Earnings Top-up Scheme

13. Amendments to the Council Tax Benefit Regulations, the Disability Working Allowance Regulations, the Family Credit Regulations, the Housing Benefit Regulations and the Income Support Regulations which are consequential upon the introduction of the Earnings Top-up Scheme are specified in the Schedule to these Regulations.

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

23rd July 1996

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

SCHEDULE

Regulation 13

Amendments consequential on the introduction
of the Earnings Top-up Scheme

[Para. 1 amends reg. 2(1) of S.Is. 1992/1814, 1991/2887, 1987/1973, 1987/1971 and 1987/1967.]

[Para. 2(1) amends reg. 2 of S.I. 1992/1814.]

[Para. 2(2) amends reg. 2 of S.I. 1987/1971.]

[Para. 2(3) amends reg. 2 of S.I. 1987/1967.]

[Para. 3 adds reg. 42(2)(h) to S.I. 1987/1967.]

[Para. 4(1) introduces amendments on the diminishing notional capital rule.]

[Para. 4(2) adds reg. 35(3)(g) to S.I. 1992/1814.]

[Para. 4(3) adds reg. 43A(3)(g) to S.I. 1987/1971.]

[Para. 4(4) adds reg. 35(4)(g) to S.I. 1992/1814 and reg. 43A(4)(g) to S.I. 1987/1971.]

[Para. 5 adds para. 54 to Sch. 3 to S.I. 1992/2887 and para. 56 to Sch. 2 to S.I. 1987/1973.]

[Para. 6 adds para. 59 to Sch. 4 to S.I. 1992/1814 and para. 60 to Sch. 4 to S.I. 1987/1971.]

[Para. 7 inserts:-

para. 8(e) into Sch. 5 to S.I. 1992/1814,

para. 8(c) into Sch. 4 to S.I. 1989/2887,

para. 8(c) into Sch. 3 to S.I. 1987/1973,

para. 8(d) into Sch. 5 to S.I. 1987/1971, and

para. 7(c) into Sch. 10 to S.I. 1987/1967.]

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 Council Tax Benefit Regulations), the Disability Working Allowance (General) Regulations 1991 (S.I. 1991/2887) (the Disability Working Allowance Regulations), the Family Credit (General) Regulations 1987 (S.I. 1987/1973) (the Family Credit Regulations), the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) (the Housing Benefit Regulations), the Income Support (General) Regulations 1987 (S.I. 1987/1967) (the Income Support Regulations) and the Social Fund (Recovery by Deductions from Benefits) Regulations 1988 (S.I. 1988/35).

In the Council Tax Benefit Regulations the provision governing students from abroad who are excluded from council tax benefit is amended to take account of changes with respect to persons from abroad (regulation 2(6)).

In the Council Tax Benefit Regulations and the Housing Benefit Regulations the manner in which a student's covenant income is calculated is amended and a minor amendment is made to the diminishing notional capital rule (regulations 2(4), (8) and (9) and 5(4), (7) and (8)).

The Council Tax Benefit Regulations, the Housing Benefit Regulations and the Income Support Regulations are amended with respect to—

- (a) the definitions relating to the treatment of students (regulations 2(5), 5(5) and 6(8));
- (b) the manner of calculating a student's grant income (regulations 2(7), 5(6) and 6(9));
- (c) the provisions specifying who is to be treated as a person from abroad (regulation 2(2) and (3), 5(2)(a) and (3), 6(2) and (6)).

In the Disability Working Allowance Regulations provision is made with respect to the period over which a person's weekly income is to be determined and the Family Credit Regulations are amended with respect to the calculation of a student's grant income. Those Regulations are also amended with respect to the treatment of overlapping awards of those benefits (regulations 3 and 4).

In the Housing Benefit Regulations the definitions of "person affected" and "young individual" are amended (regulation 5(2)).

The Income Support Regulations are amended—

- (a) with respect to payment of benefit to persons temporarily absent from Great Britain and the entitlement of persons from abroad (regulations 6(2), (3) and (6));
- (b) with respect to the treatment of a partner of a claimant for income support as engaged in remunerative work where he is engaged in such work for at least 24 hours per week (regulation 6(4)).
- (c) so that a person detained in custody or on temporary release is not to be treated as a member of the household of a claimant for income support (regulation 6(5));
- (d) with respect to the day on which arrears of child support maintenance are to be treated as paid (regulation 6(7));
- (e) with respect to the treatment of prescribed housing costs (regulation 6(10));
- (f) with respect to sums which are to be disregarded in the calculation of a person's income other than earnings (regulation 6(11)).

Where a person attending a specified course of study on 31st July 1996 is in receipt of council tax benefit, housing benefit or income support and remains entitled to the benefit concerned on 7th October 1996, while he satisfies the other conditions of entitlement to that benefit he will remain entitled to that benefit until he leaves the course or the course ends (regulations 7 and 8).

The Social Fund (Recovery by Deductions from Benefits) Regulations 1988 (S.I. 1988/35) are amended in consequence of the introduction of jobseeker's allowance (regulation 9).

The Housing Benefit (General) Amendment Regulations 1995 (S.I. 1995/1644) are amended so that the definition of "exempt accommodation" in the savings provision to those Regulations is extended to apply to accommodation which is provided by a non-metropolitan county council for care and support (regulation 10).

A minor correction is made to the interpretation provision in the Housing Benefit (General) Amendment Regulations 1996 (S.I. 1996/965) (regulation 11).

The Income Support (Jobseeker's Allowance Consequential Amendments) Regulations 1996 (S.I. 1996/206) are amended with respect to the continuity between income support and jobseeker's allowance (regulation 12).

Regulation 13 and the Schedule provide for the treatment of the extra-statutory allowance named earnings top-up for the purposes of income-related benefits.

Copies of the Earnings Top-up Scheme may be obtained by application to the Customer Services Manager, Earnings Top-up, Norcross, Blackpool FY5 3TA.

These Regulations do not impose a charge upon businesses.

