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STATUTORY INSTRUMENTS

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**1998 No. 2164**

**SOCIAL SECURITY**

**The Housing Benefit and Council Tax Benefit  
Amendment (New Deal) Regulations 1998**

*Made* - - - - *2nd September 1998*  
*Laid before Parliament* *8th September 1998*  
*Coming into force* - - *29th September 1998*

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 123(1)(d) and (e), 136(5)(a) and (b), 137(1) and 175(1) and (4) of the Social Security Contributions and Benefits Act 1992(1) and of all other powers enabling him in that behalf, after consultation with organisations appearing to the Secretary of State to be representative of the authorities concerned(2) and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(3), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Housing Benefit and Council Tax Benefit Amendment (New Deal) Regulations 1998 and shall come into force on 29th September 1998.

(2) In these Regulations—

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(4);

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(5).

**Notional income**

2. In both regulation 26 of the Council Tax Benefit Regulations and regulation 35 of the Housing Benefit Regulations(6) (which relate to notional income)—

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(1) 1992 c. 4; sections 123(1) and 137(1) of the Social Security Contributions and Benefits Act 1992 were amended to have effect with respect to council tax benefit by Schedule 9 to the Local Government Finance Act 1992 (c. 14), paragraphs 1(1) and 9; section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”.

(2) See section 176(1) of the Social Security Administration Act 1992 (c. 5).

(3) See section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

(4) S.I. 1992/1814.

(5) S.I. 1987/1971.

(6) The relevant amending instruments are S.I. 1997/2197 and 2863.

- (a) in paragraph (3), for the words from the beginning to “regulation 75(1)(b)(ii) of those Regulations” there shall be substituted the words “Any payment of income, other than a payment of income specified in paragraph (3A)”;
- (b) after paragraph (3) there shall be inserted the following paragraph—
  - “(3A) Paragraph (3) shall not apply in respect of a payment of income made—
    - (a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No.2) Trust, the Fund, the Eileen Trust or the Independent Living Funds;
    - (b) pursuant to section 19(1)(a) of the Coal Industry Act 1994(7) (concessionary coal);
    - (c) pursuant to section 2 of the Employment and Training Act 1973(8) in respect of a person’s participation—
      - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996(9);
      - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations; or
      - (iii) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations(10).”.

### **Notional capital**

**3.—(1)** In regulation 34 of the Council Tax Benefit Regulations(11) (which relates to notional capital)—

- (a) in paragraph (3), for the words from the beginning to “regulation 75(1)(b)(ii) of those Regulations” there shall be substituted the words “Any payment of capital, other than a payment of capital specified in paragraph (3A)”;
- (b) after paragraph (3) there shall be inserted the following paragraph—
  - “(3A) Paragraph (3) shall not apply in respect of a payment of capital made—
    - (a) under the Trusts, the Fund, the Eileen Trust or the Independent Living Funds;
    - (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person’s participation—
      - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996;
      - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations; or
      - (iii) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations.”.

**(2)** In regulation 43 of the Housing Benefit Regulations(12) (which relates to notional capital)—

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(7) 1994 c. 21.

(8) 1973 c. 50; section 2 was substituted by section 25 of the Employment Act 1988 (c. 19) and then amended by Schedule 7 to the Employment Act 1989 (c. 38).

(9) S.I. 1996/207; the relevant amending instruments are S.I. 1997/2863 and 1998/1174.

(10) Regulation 17A was inserted by S.I. 1998/1274.

(11) The relevant amending instruments are S.I. 1993/963 and 1249 and 1997/2863.

(12) The relevant amending instruments are S.I. 1993/963 and 1249 and 1997/2863.

- (a) in paragraph (3), for the words from the beginning to “regulation 75(1)(b)(ii) of those Regulations” there shall be substituted the words “Any payment of capital, other than a payment of capital specified in paragraph (3A)”;
- (b) after paragraph (3) there shall be inserted the following paragraph—
  - “(3A) Paragraph (3) shall not apply in respect of a payment of capital made—
    - (a) under the Macfarlane Trust, the Macfarlane (Special Payments) Trust, the Macfarlane (Special Payments) (No. 2) Trust, the Fund, the Eileen Trust or the Independent Living Funds;
    - (b) pursuant to section 2 of the Employment and Training Act 1973 in respect of a person’s participation—
      - (i) in an employment programme specified in regulation 75(1)(a)(ii) of the Jobseeker’s Allowance Regulations 1996;
      - (ii) in a training scheme specified in regulation 75(1)(b)(ii) of those Regulations; or
      - (iii) in a qualifying course within the meaning specified in regulation 17A(7) of those Regulations.”.

#### **Income to be disregarded**

**4.—**(1) After paragraph 66 of Schedule 4 to the Council Tax Benefit Regulations(**13**) (sums to be disregarded in the calculation of income other than earnings) there shall be added the following paragraph—

“**67.—**(1) Subject to sub-paragraph (2), any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7) of the Jobseeker’s Allowance Regulations 1996.

(2) No amount shall be disregarded pursuant to sub-paragraph (1) in respect of travel expenses incurred as a result of the student’s attendance on the course where an amount in respect of those expenses has already been disregarded pursuant to regulation 46 (student’s income to be disregarded).”.

(2) After paragraph 67 of Schedule 4 to the Housing Benefit Regulations(**14**) (sums to be disregarded in the calculation of income other than earnings) there shall be added the following paragraph—

“**68.—**(1) Subject to sub-paragraph (2), any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7) of the Jobseeker’s Allowance Regulations 1996.

(2) No amount shall be disregarded pursuant to sub-paragraph (1) in respect of travel expenses incurred as a result of the student’s attendance on the course where an amount in respect of those expenses has already been disregarded pursuant to regulation 57 (student’s income to be disregarded).”.

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(13) Paragraph 66 was added by S.I. 1998/1174.

(14) Paragraph 67 was added by S.I. 1998/1174.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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### **Capital to be disregarded**

5. At the end of Schedule 5 to both the Council Tax Benefit Regulations and to the Housing Benefit Regulations(15) (which relate to capital to be disregarded), there shall be added the following paragraph—

“56. Any discretionary payment made pursuant to section 2 of the Employment and Training Act 1973 to meet, or help meet, special needs of a person who is undertaking a qualifying course within the meaning specified in regulation 17A(7) of the Jobseeker’s Allowance Regulations 1996 but only for the period of 52 weeks from the date of receipt of that payment.”.

2nd September 1998

*Alistair Darling*  
Secretary of State for Social Security

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(15) The relevant amending instruments are S.I. [1997/2863](#) and [1998/1174](#).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend certain provisions in the Housing Benefit (General) Regulations 1987 (S.I.1987/1971) and in the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814) in relation to those persons who are undertaking qualifying courses as defined for the purposes of Parts II and IV of the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) in regulation 17A(7) of those Regulations.

Regulations 2 to 5 provide that discretionary payments made to persons undertaking qualifying courses to meet, or help meet special needs, shall, for the purposes of those benefits, be disregarded for the purposes of assessing that person's income or capital or, where such payments are made to third parties, shall not be taken into account as their notional income or notional capital.

These Regulations do not impose any charge on business.