

2002 No. 2380

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments)
(No. 2) Regulations 2002**

Made - - - - - 17th September 2002

Laid before Parliament 20th September 2002

Coming into force in accordance with regulation 1

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 123(1)(a), (d) and (e), 136(3) and (5)(b), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 4(5), 12(1) and (4)(b), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(b), and of all other powers enabling him in that behalf, after consultation in respect of provisions in these Regulations relating to housing benefit and council tax benefit with organisations appearing to him to be representative of the authorities concerned(c), and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(d), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 2) Regulations 2002 and shall come into force—
 - (a) for the purposes of regulation 3(a), on 28th October 2002;
 - (b) for all other purposes, on 14th October 2002.

Amendment of the Income Support (General) Regulations 1987

2. In the Income Support (General) Regulations 1987(e)—
 - (a) after paragraph 11 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) the following paragraph shall be inserted—

(a) 1992 c. 4; section 123(1)(e) was inserted by paragraph 1(1) of Schedule 9 to the Local Government Finance Act 1992, (c. 14). Section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”. Sections 175(1) and (4) were amended by section 2 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(b) 1995 c. 18; section 35(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.

(c) See section 176(1)(a) of the Social Security Administration Act 1992 (c. 5), which was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992.

(d) See sections 170 and 173(1)(b) of the Social Security Administration Act 1992; paragraph 67(a) of Schedule 2 to the Jobseekers Act 1995 added that Act to the list of “relevant enactments” in section 170(5) in respect of which regulations must normally be referred to the Committee.

(e) S.I. 1987/1967; relevant amending instruments are S.I. 1991/2742, 1996/206, 1996/1944 and 2001/2333.

“**11A.** Any payment made to the claimant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002(a).”;

(b) in paragraph 7 of Schedule 10 (capital to be disregarded)—

- (i) in sub-paragraph (a) for “, 9 or 9A” there shall be substituted “or 9”;
- (ii) at the beginning there shall be inserted “—(1) Subject to sub-paragraph (2),” and at the end there shall be added the following sub-paragraphs—

“(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as the “relevant sum”) and is—

(a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(b), and

(b) received by the claimant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of income support, for the remainder of that award if that is a longer period.

(3) For the purposes of sub-paragraph (2), “the award of income support” means—

(a) the award either of income support or of an income-based jobseeker’s allowance in which the relevant sum (or first part thereof where it is paid in more than one instalment) is received, and

(b) where that award is followed by one or more further awards which in each case may be either of income support or of an income-based jobseeker’s allowance and which, or each of which, begins immediately after the end of the previous award, such further awards until the end of the last such award, provided that for any such further awards the claimant—

(i) is the person who received the relevant sum, or

(ii) is the partner of the person who received the relevant sum, or was that person’s partner at the date of his death, or

(iii) in the case of a joint-claim jobseeker’s allowance, is a joint-claim couple either member or both members of which received the relevant sum.”.

Amendment of the Jobseeker’s Allowance Regulations 1996

3. In the Jobseeker’s Allowance Regulations 1996(c)—

(a) in sub-paragraph (3A)(a) of paragraph 20J of Schedule 1(d) (applicable amounts) the words “beginning with” shall be omitted;

(b) after paragraph 12 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings) the following paragraph shall be inserted—

“**12A.** Any payment made to the claimant by way of repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002(e).”;

(c) in paragraph 12 of Schedule 8 (capital to be disregarded) at the beginning there shall be inserted “—(1) Subject to sub-paragraph (2),” and at the end there shall be added the following sub-paragraphs—

“(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as the “relevant sum”) and is—

(a) S.I. 2002/2086.

(b) S.I. 1999/991; relevant amending instruments are S.I. 2000/897 and 2000/1596. See also articles 8(5) and 9(5) of S.I. 2002/1397.

(c) S.I. 1996/207; relevant amending instruments are S.I. 1996/2538 and 2001/2333.

(d) Sub-paragraph 20J was inserted by S.I. 2002/2020.

(e) S.I. 2002/2086.

- (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(3) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999, and
 - (b) received by the claimant in full on or after 14th October 2001,
- sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of an income-based jobseeker's allowance, for the remainder of that award if that is a longer period.
- (3) For the purposes of sub-paragraph (2), "the award of an income-based jobseeker's allowance" means—
- (a) the award either of an income-based jobseeker's allowance or of income support in which the relevant sum (or first part thereof where it is paid in more than one instalment) is received, and
 - (b) where that award is followed by one or more further awards which in each case may be either of an income-based jobseeker's allowance or of income support and which, or each of which, begins immediately after the end of the previous award, such further awards until the end of the last such award, provided that for any such further awards the claimant—
 - (i) is the person who received the relevant sum, or
 - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death, or
 - (iii) in the case of a joint-claim jobseeker's allowance, is a joint-claim couple either member or both members of which received the relevant sum."

Amendment of the Housing Benefit (General) Regulations 1987

4. In the Housing Benefit (General) Regulations 1987(a)—
- (a) in paragraph 10 of Schedule 4(b) (sums to be disregarded in the calculation of income other than earnings) the following paragraph shall be inserted—

"10A. Any payment made to the claimant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002(c).";
 - (b) in paragraph 8 of Schedule 5 (capital to be disregarded) at the beginning there shall be inserted "(1) Subject to sub-paragraph (2)," and at the end there shall be added the following sub-paragraphs—
 - (2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as the "relevant sum") and is—
 - (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations(d), and
 - (b) received by the claimant in full on or after 14th October 2001,
 sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of housing benefit, for the remainder of that award if that is a longer period.
 - (3) For the purposes of sub-paragraph (2), "the award of housing benefit" means—
 - (a) the benefit period in which the relevant sum (or first part thereof where it is paid in more than one instalment) is received, and
 - (b) where that period is followed by one or more further benefit periods which, or each of which, begins immediately after the end of the previous benefit period, such further benefit periods until the end of the last such benefit period, provided that for any such further benefit periods the claimant—

(a) S.I. 1987/1971; relevant amending instruments are S.I. 1996/1510, 1996/1944 and 2001/2333.

(b) Paragraph 10 was substituted by S.I. 2000/55.

(c) S.I. 2002/2086.

(d) S.I. 2001/1002.

- (i) is the person who received the relevant sum, or
- (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death."

Amendment of the Council Tax Benefit (General) Regulations 1992

5. In the Council Tax Benefit (General) Regulations 1992(a)—

- (a) in paragraph 10 of Schedule 4(b) (sums to be disregarded in the calculation of income other than earnings) the following paragraph shall be inserted—

"**10A.** Any payment made to the claimant by way of a repayment under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002(c).";

- (b) in paragraph 8 of Schedule 5 (capital to be disregarded) at the beginning there shall be inserted "—(1) Subject to sub-paragraph (2)," and at the end there shall be added the following sub-paragraphs—

"(2) In a case where the total of any arrears and, if appropriate, any concessionary payment referred to in sub-paragraph (1) relating to any one of the specified payments, benefits or allowances amounts to £5,000 or more (referred to in this sub-paragraph and in sub-paragraph (3) as the "relevant sum") and is—

- (a) paid in order to rectify, or to compensate for, an official error as defined in regulation 1(2) of the Decisions and Appeals Regulations, and
- (b) received by the claimant in full on or after 14th October 2001,

sub-paragraph (1) shall have effect in relation to such arrears or concessionary payment either for a period of 52 weeks from the date of receipt, or, if the relevant sum is received in its entirety during the award of council tax benefit, for the remainder of that award if that is a longer period.

(3) For the purposes of sub-paragraph (2), "the award of council tax benefit" means—

- (a) the benefit period in which the relevant sum (or first part thereof where it is paid in more than one instalment) is received, and
- (b) where that period is followed by one or more further benefit periods which, or each of which, begins immediately after the end of the previous benefit period, such further benefit periods until the end of the last such benefit period, provided that for any such further benefit periods the claimant—
 - (i) is the person who received the relevant sum, or
 - (ii) is the partner of the person who received the relevant sum, or was that person's partner at the date of his death."

Signed by authority of the Secretary of State for Work and Pensions

17th September 2002

Ian McCartney
Minister of State,
Department for Work and Pensions

(a) S.I. 1992/1814; relevant amending instruments are S.I. 1993/688, 1996/1510, 1996/1944 and 2001/2333.
(b) Paragraph 10 was substituted by S.I. 2000/55.
(c) S.I. 2002/2086.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), the Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) and the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814) ("the principal Regulations").

Regulation 3(a) makes a minor amendment to the wording of sub-paragraph (3A)(a) of paragraph 20J of Schedule 1 to the Jobseeker's Allowance Regulations 1996 to clarify the date from which the condition for the award of carer premium shall be treated as satisfied.

Regulations 2(b), 3(c), 4(b) and 5(b) amend the capital disregard provisions of the principal Regulations that apply when ascertaining entitlement to those benefits so that the disregard of specified arrears and concessionary payments will apply for either 52 weeks or, where large payments are made to rectify an official error and are paid during the benefit award, for the remainder of that award (as defined) if that is a longer period. Regulation 2(b)(i) also makes a technical amendment to paragraph 7 of Schedule 10 to the Income Support (General) Regulations 1987.

Regulations 2(a), 3(b), 4(a) and 5(a) make amendments to the principal Regulations to provide that any payment made to a claimant in respect of the repayment of a student loan under regulation 11(2) of the Education (Teacher Student Loans) (Repayment etc) Regulations 2002 (S.I. 2002/2086) shall be disregarded in the calculation of income.

These Regulations do not impose a charge upon business.

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