

**2004 No. 1141**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous Amendments)  
(No. 2) Regulations 2004**

<i>Made</i> - - - -	<i>14th April 2004</i>
<i>Laid before Parliament</i>	<i>21st April 2004</i>
<i>Coming into force</i> - -	<i>12th May 2004</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by section 123(1)(a), (d) and (e), sections 135(1), 136(3), 136(5)(b) and (d), sections 137(1), 138(1)(a) and (4) and 175(4) of the Social Security Contributions and Benefits Act 1992(a), sections 12(1), 12(4)(b) and (d), 35(1) and 36(4) of the Jobseekers Act 1995(b), sections 15(3) and (6) and 17(1) of the State Pension Credit Act 2002(c) and section 29 of and paragraph 8 of Schedule 1 to the Social Security (Recovery of Benefits) Act 1997(d) and 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(e), and after agreement by the Social Security Advisory Committee that proposals in respect of the Regulations should not be referred to it(f), hereby makes the following Regulations:

**Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 2) Regulations 2004 and shall come into force on 12th May 2004.

(2) In these Regulations—

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

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(h);

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- (a) 1992 c.4. Section 123(1)(e) was substituted by paragraph 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 given to the word “prescribed”.
- (b) 1995 c.18. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”. Sections 35(1) and 36(4) were amended by section 2 of, and paragraph 62 and 63 respectively of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (1999 c.2).
- (c) 2002 c.16. Section 17(1) is cited because of the meaning given to the words “prescribed” and “regulations”.
- (d) 1997 c.27. Section 29 is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.
- (e) Section 176(1) of the Social Security Administration Act 1992 (1992 c.5).
- (f) Sections 170 and 173(1) of the Social Security Administration Act 1992; paragraph 67 of Schedule 2 to the Jobseekers Act 1995 added that Act to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee.
- (g) S.I. 1992/1814.
- (h) S.I. 1987/1971.

- “the Income Support Regulations” means the Income Support (General) Regulations 1987(a);
- “the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(b);
- “the Recovery of Benefits Regulations” means the Social Security (Recovery of Benefits) Regulations 1997(c);
- “the Social Fund Maternity and Funeral Expenses Regulations” means the Social Fund Maternity and Funeral Expenses (General) Regulations 1987(d);
- “the State Pension Credit Regulations” means the State Pension Credit Regulations 2002(e).

### **Common amendments relating to interpretation**

2. In regulation 2(1) of each of the Council Tax Benefit Regulations, the Housing Benefit Regulations and the Income Support Regulations, in regulation 1(3) of the Jobseeker’s Allowance Regulations and regulation 1(2) of the State Pension Credit Regulations—

- (a) in the definition of “qualifying person”(f) for the words “or the Eileen Trust” there shall be substituted “, the Eileen Trust or the Skipton Fund”;
- (b) immediately after the definitions of—
  - (i) in the Council Tax Benefit Regulations, “the Independent Living (1993) Fund”;
  - (ii) in the Income Support Regulations and the Housing Benefit Regulations, “the Macfarlane Trust”;
  - (iii) in the Jobseeker’s Allowance Regulations, “single claimant”; and
  - (iv) in the State Pension Credit Regulations, “qualifying person”,

there shall be inserted the following definition—

““the Skipton Fund” means the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme’s provisions;”.

### **Common amendments relating to capital to be disregarded**

3.—(1) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (2) for the words “section 12, 24 or 26 of the Social Work (Scotland) Act 1968” there shall be substituted “section 12 of the Social Work (Scotland) Act 1968 or sections 29 or 30 of the Children (Scotland) Act 1995”.

(2) The paragraphs of the Schedules specified for the purpose of paragraph (1) above are—

- (a) paragraph 18(g) of Schedule 5 to the Council Tax Benefit Regulations;
- (b) paragraph 18(h) of Schedule 5 to the Housing Benefit Regulations;
- (c) paragraph 17(i) of Schedule 10 to the Income Support Regulations;
- (d) paragraph 22(j) of Schedule 8 to the Jobseeker’s Allowance Regulations.

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(a) S.I. 1987/1967.

(b) S.I. 1996/207.

(c) S.I. 1997/2205.

(d) S.I. 1987/481.

(e) S.I. 2002/1792.

(f) The definition of “qualifying person” was inserted into S.I. 1987/1967 and 1987/1971 by S.I. 1992/1101. The relevant amending instrument is S.I. 1993/1249.

(g) Paragraph 18 was amended by S.I. 2001/3070.

(h) The relevant amending instruments are S.I. 1992/432 and 2001/3070.

(i) The relevant amending instruments are S.I. 1988/663, 1989/1034, 1992/468 and 2001/3070.

(j) Paragraph 22 was amended by S.I. 2001/3070.

(3) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (4) for the words “or the Independent Living Funds” there shall be substituted “, the Independent Living Funds or the Skipton Fund”.

(4) The paragraphs of the Schedules specified for the purpose of paragraph (3) above are—

- (a) paragraph 23(1)(a) of Schedule 5 to the Council Tax Benefit Regulations;
- (b) paragraph 23(1)(b) of Schedule 5 to the Housing Benefit Regulations;
- (c) paragraph 22(1)(c) of Schedule 10 to the Income Support Regulations;
- (d) paragraph 15(1) of Schedule V to the State Pension Credit Regulations.

(5) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (6) for the words “and the Eileen Trust” there shall be substituted “, the Eileen Trust and the Skipton Fund”.

(6) The paragraphs of the Schedules specified for the purpose of paragraph (5) above are—

- (a) paragraph 23(7)(d) of Schedule 5 to the Council Tax Benefit Regulations;
- (b) paragraph 23(7)(e) of Schedule 5 to the Housing Benefit Regulations;
- (c) paragraph 22(7)(f) of Schedule 10 to the Income Support Regulations;
- (d) paragraph 15(7) of Schedule V to the State Pension Credit Regulations.

(7) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (8) after the words “the Eileen Trust” there shall be inserted “, the Skipton Fund”.

(8) The paragraphs of the Schedules specified for the purpose of paragraph (7) above are—

- (a) paragraph 16(1)(a) of Schedule 5ZA(g) to each of the Council Tax Benefit Regulations and the Housing Benefit Regulations;
- (b) paragraph 27(1) of Schedule 8 to the Jobseeker’s Allowance Regulations.

#### **Common amendments relating to sums to be disregarded in the calculation of income other than earnings**

4.—(1) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (2) for the words “section 21 of the Social Work (Scotland) Act 1968” there shall be substituted “section 26 of the Children (Scotland) Act 1995”.

(2) The paragraphs of the Schedules specified for the purpose of paragraph (1) above are—

- (a) paragraph 25 of Schedule 4 to the Council Tax Benefit Regulations;
- (b) paragraph 24(h) of Schedule 4 to the Housing Benefit Regulations;
- (c) paragraph 26(i) of Schedule 9 to the Income Support Regulations;
- (d) paragraph 27 of Schedule 7 to the Jobseeker’s Allowance Regulations.

(3) In each of the paragraphs of the Schedules to the Regulations specified in paragraph (4) for the words “section 12, 24 or 26 of the Social Work (Scotland) Act 1968” there shall be substituted “section 12 of the Social Work (Scotland) Act 1968 or sections 29 or 30 of the Children (Scotland) Act 1995”.

(4) The paragraphs of the Schedules specified for the purpose of paragraph (3) above are—

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- (a) The relevant amending instruments are S.I. 1993/963 and 1993/1249.
  - (b) Paragraph 23 was inserted by S.I. 1988/661 and substituted by S.I. 1991/1175. The relevant amending instruments are S.I. 1992/1101, 1993/963 and 1993/1249.
  - (c) The relevant amending instruments are S.I. 1988/663, 1991/1175, 1992/1101, 1993/963 and 1993/1249.
  - (d) Sub-paragraph (7) was amended by S.I. 1993/1249.
  - (e) Paragraph 23 was inserted by S.I. 1988/661 and amended by S.I. 1992/1101 and 1993/1249.
  - (f) Paragraph 22 was inserted by S.I. 1988/663 and substituted by S.I. 1991/1175. The relevant amending instruments are S.I. 1992/1101 and 1993/1249.
  - (g) Schedule 5ZA was inserted in each set of regulations by S.I. 2003/325.
  - (h) Paragraph 24 was substituted by S.I. 1992/432.
  - (i) Paragraph 26 was amended by S.I. 1988/1445 and 1992/468.

- (a) paragraph 27(a) of Schedule 4 to the Council Tax Benefit Regulations;
- (b) paragraph 26(b) of Schedule 4 to the Housing Benefit Regulations;
- (c) paragraph 28(c) of Schedule 9 to the Income Support Regulations;
- (d) paragraph 29(d) of Schedule 7 to the Jobseeker's Allowance Regulations.

**Income support and jobseeker's allowance: capital treated as income**

5. In regulation 41(3)(e) of the Income Support Regulations and in regulation 104(3)(f) of the Jobseeker's Allowance Regulations for the words "section 12, 24 or 26 of the Social Work (Scotland) Act 1968" there shall be substituted "section 12 of the Social Work (Scotland) Act 1968 or sections 29 or 30 of the Children (Scotland) Act 1995".

**Further amendment of the Income Support Regulations**

6. In paragraph 12(1)(d)(i) of Schedule 2(g) to the Income Support Regulations (applicable amounts) for the words "Social Security (Hospital In-Patient) Regulations 1975" there shall be substituted "Social Security (Attendance Allowance) Regulations 1991 or the Social Security (Disability Living Allowance) Regulations 1991".

**Amendment of the Recovery of Benefit Regulations relating to the Skipton Fund**

7. In regulation 2(2) of the Recovery of Benefit Regulations—
- (a) in sub-paragraph (i) for "10th April 1992." there shall be substituted "10th April 1992;";
  - (b) after sub-paragraph (i) there shall be inserted—
    - "(j) any payment made from the Skipton Fund, the ex-gratia payment scheme administered by the Skipton Fund Limited, incorporated on 25th March 2004, for the benefit of certain persons suffering from hepatitis C and other persons eligible for payment in accordance with the scheme's provisions."

**Amendment of the Social Fund Maternity and Funeral Expenses Regulations relating to the Skipton Fund**

8. In regulation 8(2)(h) of the Social Fund Maternity and Funeral Expenses Regulations—
- (a) for the words "or the Eileen Trust" there shall be substituted ", the Eileen Trust or the Skipton Fund";
  - (b) for the words "and "the Eileen Trust"" there shall be substituted ", "the Eileen Trust" and "the Skipton Fund"".

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

*Chris Pond*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

14th April 2004

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(a) Paragraph 27 was amended by S.I. 2001/3070.  
 (b) Paragraph 26 was substituted by S.I. 1992/432 and amended by S.I. 2001/3070.  
 (c) Relevant amending instruments are S.I. 1988/663, 1989/1034, 1992/468 and 2001/3070.  
 (d) Paragraph 29 was amended by S.I. 2001/3070.  
 (e) Paragraph 3 was amended by S.I. 1988/663, 1989/1034 and 2001/3070.  
 (f) The relevant amending instrument is S.I. 2001/3070.  
 (g) Paragraph 12(1)(c) and (d) substituted for paragraph 12(1)(c) as originally enacted, by S.I. 2002/3019.  
 (h) Paragraph 2 was inserted by S.I. 1997/792 and amended by S.I. 2001/1118.

## 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 Housing Benefit (General) Regulations 1987 (S.I. 1987/1971), the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) and the State Pension Credit Regulations 2002 (S.I. 2002/1792) ("the Principal Regulations").

These Regulations also amend the Social Fund Maternity and Funeral Expenses (General) Regulations 1987 (S.I. 1987/481) ("the Social Fund Maternity and Funeral Expenses Regulations") and the Social Security (Recovery of Benefits) Regulations 1997 (S.I. 1997/2205) ("the Recovery of Benefit Regulations").

The Principal Regulations are amended to—

- insert a definition of the Skipton Fund (regulation 2);
- include in the definition of "qualifying person" reference to a person in respect of whom payment has been made from the Skipton Fund (regulation 2); and
- provide that payments made to a person from the Skipton Fund will be disregarded when calculating a person's capital and, in the case of the State Pension Credit Regulations 2002, provide that payments received will be disregarded for the purpose of calculating a person's income from capital (regulation 3(3) – (8)).

The Skipton Fund is an ex-gratia payment scheme administered by the Skipton Fund Limited on behalf of the Department of Health for the benefit of persons who have contracted hepatitis C from NHS blood, blood products or tissue.

Except in the case of the State Pension Credit Regulations 2002, the Principal Regulations are also amended to substitute references to the Social Work (Scotland) Act 1968, which were repealed by the Children (Scotland) Act 1995, with references to the latter Act (regulations 3(1) and (2), 4 and 5).

Regulation 6 amends the Income Support (General) Regulations 1987 to correct a reference to supporting legislation in the conditions for Higher Pensioner Premium and Disability Premium which was inserted by the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019).

Regulation 7 amends regulation 2(2) of the Recovery of Benefit Regulations to include an exemption for payments made from the Skipton Fund from the compensation recovery scheme.

Regulation 8 amends regulation 8 of the Social Fund Maternity and Funeral Expenses Regulations to provide that payments received from the Skipton Fund will not be deducted from an award of a funeral payment.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.





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