
STATUTORY INSTRUMENTS

2004 No. 1708

SOCIAL SECURITY

The Social Security (Students and Income-related Benefits) Amendment Regulations 2004

Made - - - - *3rd July 2004*
Laid before Parliament *9th July 2004*
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), (2)(h) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992⁽¹⁾ and sections 12(1) and (4)(b), 35(1) and 36(2) and (4) of the Jobseekers Act 1995⁽²⁾ 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⁽³⁾ and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it⁽⁴⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Students and Income-related Benefits) Amendment Regulations 2004 and shall come into force—

- (a) for the purposes of this regulation, on 1st August 2004; and
- (b) for the purposes of regulations 2 to 7—
 - (i) in the case of a person whose period of study begins on or after 1st August 2004 but before 1st September 2004, on the day the period of study begins; and
 - (ii) in any other case, on 1st September 2004.

(1) 1992 c. 4. Section 123(1)(e) was substituted 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 there given to the word “prescribed”. Section 175(4) was amended by section 2 of, and paragraph 29 of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).

(2) 1995 c. 18. Section 35(1) is an interpretation provision and is cited because of the meaning there given to the words “prescribed” and “regulations”. Sections 35(1) and 36(4) were amended by section 2 of, and paragraphs 62 and 63 respectively of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999.

(3) See section 176(1) of the Social Security Administration Act 1992 (c. 5) as amended by section 103 of, and paragraph 23 of Schedule 9 to, the Local Government Finance Act 1992.

(4) See sections 172(1) and 173(1)(b) 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.

(2) In these Regulations—

“the Council Tax Benefit Regulations” means the Council Tax Benefit (General) Regulations 1992(5);

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987(6);

“the Income Support Regulations” means the Income Support (General) Regulations 1987(7);

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(8);

“period of study” for the purposes of paragraph (1) has the same meaning as in regulation 61 of the Income Support Regulations.

Amendments in relation to the disregard of travel costs and the cost of books and equipment

2.—(1) In sub-paragraph (a) of each of the provisions specified in paragraph (3) for “£270” substitute “£275”.

(2) In sub-paragraph (b) of each of the provisions specified in paragraph (3) for “£335” substitute “£343”.

(3) The provisions(9) specified for the purposes of paragraphs (1) and (2) (which relate respectively to sums to be disregarded from the calculation of grant income and from student loans) are—

(a) regulations 42(3) and 47(5) of the Council Tax Benefit Regulations;

(b) regulations 53(2A) and 57A(5) of the Housing Benefit Regulations;

(c) regulations 62(2A) and 66A(5) of the Income Support Regulations;

(d) regulations 131(3) and 136(5) of the Jobseeker’s Allowance Regulations.

Amendments in relation to the disregard of child care costs of a child dependant

3.—(1) After sub-paragraph (h) of each of the provisions specified in paragraph (2) add—

“(i) intended for the child care costs of a child dependant.”.

(2) The provisions(10) specified in this paragraph for the purposes of paragraph (1) are—

(a) regulation 42(2) of the Council Tax Benefit Regulations;

(b) regulation 53(2) of the Housing Benefit Regulations.

(3) In regulation 62(2) of the Income Support Regulations(11)—

(a) in sub-paragraph (i) delete “or child care costs”;

(b) after sub-paragraph (i) add—

“(j) intended for the child care costs of a child dependant.”.

(4) In regulation 131(2) of the Jobseeker’s Allowance Regulations(12)—

(a) in sub-paragraph (h) delete “or child care costs”;

(b) after sub-paragraph (h) add—

(5) S.I. 1992/1814.

(6) S.I. 1987/1971.

(7) S.I. 1987/1967.

(8) S.I. 1996/207.

(9) The relevant amending instruments are S.I. 1990/1549, 1999/1935, 2000/1922, 2001/2319, 2002/1589, 2003/1701 and 1914.

(10) The relevant amending instruments are S.I. 1996/1944 and 1999/1935.

(11) The relevant amending instruments are S.I. 1996/1944, 1999/1935 and 2003/455.

(12) The relevant amending instruments are S.I. 1996/1516, 1999/1935 and 2003/455.

- “(i) intended for the child care costs of a child dependant.”.
- (5) Omit sub-paragraphs (c), (cc) and (d) of each of the provisions specified in paragraph (6).
- (6) The provisions(**13**) specified in this paragraph for the purposes of paragraph (5) are—
 - (a) regulation 42(3A) of the Council Tax Benefit Regulations;
 - (b) regulation 53(2B) of the Housing Benefit Regulations;
 - (c) regulation 62(2B) of the Income Support Regulations;
 - (d) regulation 131(3A) of the Jobseeker’s Allowance Regulations.

Amendment of the Council Tax Benefit Regulations and the Housing Benefit Regulations in relation to income and capital disregards

4.—(1) In each of the provisions specified in paragraph (2) in the definition of “grant” after “a payment from access funds” add “or any payment to which paragraph 10 of Schedule 4 or paragraph 60 of Schedule 5 applies”.

(2) The provisions(**14**) specified in this paragraph for the purposes of paragraph (1) (which relate to interpretation) are—

- (a) regulation 38 of the Council Tax Benefit Regulations;
- (b) regulation 46 of the Housing Benefit Regulations.
- (3) For paragraph 10 of—
 - (a) Schedule 4 to the Council Tax Benefit Regulations(**15**) (sums to be disregarded in the calculation of income other than earnings); and
 - (b) Schedule 4 to the Housing Benefit Regulations(**16**) (sums to be disregarded in the calculation of income other than earnings),

substitute—

“**10.**—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996(**17**) (payment of school expenses; grant of scholarships etc);
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980(**18**) (power to assist persons to take advantage of educational facilities);
 - (iii) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992(**19**) (provision of financial assistance to students); or
- (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002(**20**) (power of Secretary of State and National Assembly for Wales to give financial assistance for

(13) The relevant amending instruments are S.I. 2001/2319, 2002/1589 and 2003/455 and 1701.

(14) The relevant amending instruments are S.I. 1996/1944, 1998/563, 1999/1935, 2000/1922 and 2001/2319.

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

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

(17) 1996 c. 56.

(18) 1980 c. 44.

(19) 1992 c. 37.

(20) 2002 c. 32.

purposes related to education or childcare, and allowances in respect of education or training); or

(ii) regulations made under section 181 of that Act.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).”.

(4) For paragraph 60 of—

- (a) Schedule 5 to the Council Tax Benefit Regulations(**21**) (capital to be disregarded); and
- (b) Schedule 5 to the Housing Benefit Regulations(**22**) (capital to be disregarded),

substitute—

“**60.**—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996;
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
 - (iii) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992; or
- (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002; or
 - (ii) regulations made under section 181 of that Act.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).”.

Amendment of the Income Support Regulations

5.—(1) In regulation 61(1) of the Income Support Regulations(**23**) (students – interpretation)—

(21) Paragraph 60 was inserted by S.I. [2000/55](#).

(22) Paragraph 60 was inserted by S.I. [2000/55](#).

(23) The relevant amending instruments are S.I. [1996/1944](#) and [2000/1922](#).

- (a) in the definition of “course of advanced education” for “a Scottish certificate of education (higher level) or a Scottish certificate of sixth year studies” substitute “a Scottish national qualification (higher or advanced higher)”;
 - (b) in the definition of “grant” after “a payment from access funds” add “or any payment to which paragraph 11 of Schedule 9 or paragraph 63 of Schedule 10 applies”.
- (2) For paragraph 11 of Schedule 9 to the Income Support Regulations⁽²⁴⁾ (sums to be disregarded in the calculation of income other than earnings) substitute—

“**11.**—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996;
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
 - (iii) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992; or
- (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002; or
 - (ii) regulations made under section 181 of that Act.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).”.

- (3) For paragraph 63 of Schedule 10 to the Income Support Regulations⁽²⁵⁾ (capital to be disregarded) substitute—

“**63.**—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996;
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
 - (iii) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992; or
- (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002; or
 - (ii) regulations made under section 181 of that Act.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

⁽²⁴⁾ Paragraph 11 was substituted by S.I. 2000/55.

⁽²⁵⁾ Paragraph 63 was inserted by S.I. 2001/859.

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).”.

Amendment of the Jobseeker’s Allowance Regulations

6.—(1) In regulation 1(3) of the Jobseeker’s Allowance Regulations(**26**) (interpretation) in the definition of “course of advanced education” for “a Scottish certificate of education (higher level) or a Scottish certificate of sixth year studies” substitute “a Scottish national qualification (higher or advanced higher)”.

(2) In regulation 130 of the Jobseeker’s Allowance Regulations(**27**) (students – interpretation) in the definition of “grant” after “a payment from access funds” add “or any payment to which paragraph 12 of Schedule 7 or paragraph 52 of Schedule 8 applies”.

(3) For paragraph 12 of Schedule 7 to the Jobseeker’s Allowance Regulations(**28**) (sums to be disregarded in the calculation of income other than earnings) substitute—

“**12.**—(1) Any payment—

- (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996;
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
 - (iii) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992; or
- (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002; or
 - (ii) regulations made under section 181 of that Act.

(2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—

- (a) regulations made under section 518 of the Education Act 1996;
- (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
- (c) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992,

in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).”.

(4) For paragraph 52 of Schedule 8 to the Jobseeker’s Allowance Regulations(**29**) (capital to be disregarded) substitute—

“**52.**—(1) Any payment—

(26) To which there are amendments not relevant to these Regulations.

(27) The relevant amending instruments are S.I. [1998/563](#), [1999/1935](#), [2000/1922](#) and [2001/2319](#).

(28) Paragraph 12 was substituted by S.I. [2000/55](#).

(29) Paragraph 52 was inserted by S.I. [2000/55](#).

- (a) by way of an education maintenance allowance made pursuant to—
 - (i) regulations made under section 518 of the Education Act 1996;
 - (ii) regulations made under section 49 or 73(f) of the Education (Scotland) Act 1980;
 - (iii) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992; or
 - (b) corresponding to such an education maintenance allowance, made pursuant to—
 - (i) section 14 or section 181 of the Education Act 2002; or
 - (ii) regulations made under section 181 of that Act.
- (2) Any payment, other than a payment to which sub-paragraph (1) applies, made pursuant to—
- (a) regulations made under section 518 of the Education Act 1996;
 - (b) regulations made under section 49 of the Education (Scotland) Act 1980; or
 - (c) directions made under sections 12(2)(c) and 21 of the Further and Higher Education (Scotland) Act 1992,
- in respect of a course of study attended by a child or a young person or a person who is in receipt of an education maintenance allowance made pursuant to any provision specified in sub-paragraph (1).”.

Amendment of the Housing Benefit Regulations in relation to payment of housing benefit to students

7. In regulation 50 of the Housing Benefit Regulations(30) (eligible housing costs)—
- (a) in paragraph (1) for “paragraphs (2) and (3)” substitute “paragraphs (2) to (4)”;
 - (b) in paragraph (2) for “Where” substitute “Subject to paragraph (4), where”;
 - (c) after paragraph (3) add—
 - “(4) Housing benefit shall be payable during the period of study in respect of payments made by a student to an educational establishment which the student is attending where the student—
 - (a) is one who falls within a category specified in regulation 48A(2); or
 - (b) would fall within a category specified in regulation 48A(2)(aa) to (g) if he were a full-time student.”.

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

3rd July 2004

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

(30) Regulation 50 was amended by S.I. [2001/1605](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further 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) and the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) ("the income-related benefits Regulations") in so far as they relate to students and sums to be disregarded in the calculation of their entitlement to benefit under the income-related benefits Regulations.

Regulation 1 comes into force on 1st August 2004. In respect of a person whose period of study begins on or after 1st August 2004 but before 1st September 2004 regulations 2 to 7 come into force on the day the period of study begins. In all other cases regulations 2 to 7 come into force on 1st September 2004.

The income-related benefits Regulations are amended to increase the amounts of grant and loan income to be disregarded in respect of travel costs and the cost of books and equipment (regulation 2).

Regulation 3 amends the income-related benefits Regulations to disregard payments made to any student as part of his grant income in respect of child care costs of a child dependant.

Regulations 4 to 6 amend the income-related benefits Regulations to disregard from the calculation of income or capital certain payments made under certain legislation to a person taking part in secondary or further education.

The definitions of "course of advanced education" in the Income Support (General) Regulations 1987 and the Jobseeker's Allowance Regulations 1996 are amended in order to update the references there to certain Scottish educational qualifications (regulations 5 and 6).

Regulation 7 amends regulation 50 of the Housing Benefit (General) Regulations 1987 to enable certain students to be eligible for housing benefit in respect of accommodation which they rent from their educational establishment.

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