
STATUTORY INSTRUMENTS

2005 No. 2465

**The Social Security (Miscellaneous
Amendments) (No. 2) Regulations 2005**

Amendment of the Jobseeker's Allowance Regulations

3.—(1) The Jobseeker's Allowance Regulations are amended as follows.

(2) In regulation 104(1) (capital treated as income)^{M1}, omit “£8,000 or, in a case where regulation 107(aa) applies, £12,000 or, in a case where regulation 107(b) applies,”.

(3) In regulation 105 (notional income)—

(a) in paragraph (2)(g), after “personal pension scheme” insert “ or occupational pension scheme ”;

(b) before paragraph (3) insert—

“(2B) A claimant who has attained the age of 60 shall be treated as possessing—

(a) the amount of any income from an occupational pension scheme or personal pension scheme—

(i) for which no claim has been made, and

(ii) to which he might expect to be entitled if a claim for it were made;

(b) income from an occupational pension scheme which the claimant elected to defer,

but only from the date on which it could be expected to be acquired were an application for it to be made.”;

(c) in paragraph (3)—

(i) omit “, is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, and”;

(ii) for sub-paragraph (a) substitute—

“(a) is a person entitled to money purchase benefits under an occupational pension scheme, or under a personal pension scheme other than one referred to in sub-paragraph (b), and fails to purchase an annuity with the funds available in that scheme where—

(i) he defers, in whole or in part, the payment of any income which would have been payable to him by his pension fund holder,

(ii) he fails to take any necessary action to secure that the whole of any income which would be payable to him by his pension fund holder upon his applying for it, is so paid, or

(iii) income withdrawal is not available to him under that scheme; or”;

(iii) in sub-paragraph (b)—

(aa) for “in the case of” substitute “ is a party to, or a person deriving entitlement to a pension under, ”;

- (bb) for “he” substitute “ and ”;
- (d) in paragraph (5), for “personal pension scheme been held under a personal pension scheme” substitute “ occupational or personal pension scheme been held under a scheme ”;
- (e) after paragraph (5) insert—
 - “(5A) In paragraph (3), “money purchase benefits” has the meaning it has in the Pension Schemes Act 1993.”;
- (f) at the end of paragraph (10) ^{M2}, after “any payment in kind” insert “ to the third party ”.
- (4) For regulation 107 (capital limit) ^{M3} substitute—

“Capital limit

107. For the purposes of section 13(1) and (2A) (no entitlement to an income-based jobseeker's allowance if capital exceeds a prescribed amount), the prescribed amount is £16,000.”.

- (5) In regulation 113 (notional capital), after paragraph (2)(d) insert—
 - “(da) an occupational pension scheme where the claimant is aged under 60; or”.
- (6) In regulation 116 (calculation of tariff income from capital) ^{M4}—
 - (a) in paragraph (1)—
 - (i) omit “(1ZA) or”;
 - (ii) for “£3,000” (in both places) substitute “ £6,000 ”, and
 - (iii) for “£8,000” substitute “ £16,000 ”;
 - (b) omit paragraph (1ZA);
 - (c) in paragraphs (2) and (3) omit “, (1ZA)”.
- (7) In Schedule 2 (housing costs), in paragraph 13(5)(a) and (c) for “£8,000” substitute “ £16,000 ”.
- (8) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—
 - (a) after paragraph 22(3) ^{M5} add—
 - “(4) The reference in sub-paragraph (1) to “income in kind” does not include a payment to a third party made in respect of the claimant which is used by the third party to provide benefits in kind to the claimant.”;
 - (b) in paragraph 26(1)(a) ^{M6}, for “in accordance with regulations made pursuant to section 57A of the Adoption Act 1976 (permitted allowances) or paragraph 3 of Schedule 4 to the Adoption and Children Act 2002 or” substitute “ pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002 or in accordance ”;
 - (c) for paragraph 26(1A) substitute—
 - “(1A) Any payment, other than a payment to which sub-paragraph (1)(a) applies, made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.”.
- (9) In Schedule 8 (capital to be disregarded) ^{M7}, for paragraph 61 substitute—

“**61.** Any payment made to the claimant pursuant to regulations under section 2(6)(b), 3 or 4 of the Adoption and Children Act 2002.”.

Marginal Citations

- M1** Regulation 104(1) was amended by S.I. 1997/65, **reg. 3(3)**, S.I. 1999/2860, Schedule 12, paragraph 5 and S.I. 2000/2545, **reg. 2(2)(a)**.
- M2** Paragraph 10 was amended by S.I. 1998/2117, **reg. 2(1)(a)**, S.I. 1999/2640, reg. 2(1)(b), S.I. 2000/1978, **Schedule 2**, paragraph 42, S.I. 2002/841, reg. 3(2), S.I. 2003/455, **Schedule 2**, paragraph 10(c) and (d), and S.I. 2005/574, **reg. 2(6)**.
- M3** Regulation 107 was substituted by S.I. 1996/1516, **reg. 11**, and amended by S.I. 2000/1978, **Schedule 2**, paragraph 43, and S.I. 2000/2545, **reg. 2(2)**.
- M4** Regulation 116 was amended by S.I. 1996/1516, **reg. 12**, S.I. 1997/65, reg. 8, S.I. 1997/2197, **reg. 7(6)(b)**, S.I. 2000/2545, and reg. 2(2)(c), and S.I. 2001/3767, **Schedule**, paragraph 12.
- M5** Paragraph 22(3) was added by S.I. 2000/636, **reg. 4(9)(c)**.
- M6** Paragraph 26(1)(a) was amended and paragraph 26(1A) was inserted by S.I. 2003/2279, **reg. 3(4)**.
- M7** Paragraph 61 was added by S.I. 2003/2279, **reg. 3(5)(d)**.

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2005, Section 3.