

## **EXPLANATORY MEMORANDUM TO**

### **THE INCOME-RELATED BENEFITS (AMENDMENT) (No.2) REGULATIONS 2005**

**2005 No. 3391**

- 1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.**

**This memorandum contains information for the Joint Committee on Statutory Instruments**

- 2. Description**

- 2.1 This instrument makes amendments to the Regulations dealing with income-related benefits (IRBs), namely the Income Support (General) Regulations 1987 the Jobseeker's Allowance Regulations 1996, the Housing Benefit (General) Regulations 1987 and the Council Tax Benefit (General) Regulations 1992. These four sets of Regulations are collectively referred to in this memorandum as "the IRB Regulations". The purpose of this instrument is to amend the legislation to provide that any payment made from the London Bombings Relief Charitable Fund (LBRCF), to anyone in receipt of or claiming one of the IRBs or State Pension Credit, is disregarded for benefit purposes.

- 3. Matters Of Special Interest To The Joint Committee On Statutory Instruments**

- 3.1 The regulations are subject to the negative process.

- 3.2 The 21-day rule has been breached. This is because of the exceptional circumstances giving rise to the amendments, namely the terrorist attacks of the 7<sup>th</sup> July 2005 and the subsequent setting up of the London Bombings Charitable Relief Fund (LBRCF), initially to make interim assistance grants to the victims of the attacks for their immediate needs and at present to make further payments for their injuries.

- 3.3 Due to the urgency of these regulations it was the original intention, to forgo the normal prior consultation with the Social Security Advisory Committee (SSAC) and Local Authorities in accordance with section 173(1)(a) and 176(2)(a) of the Social Security Administration Act 1992. However, given that we had the opportunity to carry out the consultation with the SSAC with minimal delay this has been carried out. There has however, been insufficient time to carry out the 6 week consultation period with the Local Authorities.

#### **4. Legislative Background**

4.1 The amendments provide that all payments made from the LBCRF set up in the wake of the bombings in London on 7<sup>th</sup> July 2005, are to be disregarded in full. Some income derived from those payments will also be disregarded, however see para 7.2.

#### **5. Extent**

5.1 This instrument extends to Great Britain.

5.2 The Department for Social Development in Northern Ireland will be making Regulations for Northern Ireland that mirror these amendments.

#### **6. The European Convention On Human Rights**

6.1 No statement is required.

#### **7. Policy Background**

7.1 The London Bombings Relief Charitable Fund (LBCRF) has been established by the Greater London Authority (GLA) to help people who were affected by the London Bombings on 7th July. Emergency regulations were laid before Parliament in August 05 to amend the IRB and the State Pension Credit Regulations so that any interim assistance grant paid by the Fund to relieve immediate needs could be fully disregarded for benefit purposes. Further payments made by the LBCRF are now also to be disregarded for benefit purposes in line with existing provisions for recipients of payments from the Macfarlane Trust, Eileen Trust and Skipton Fund.

7.2 The policy in relation to any payment from the LBCRF is that it should be disregarded in full for benefit purposes. The disregard will apply equally in respect of both current and future benefit awards, and applies to all payments from the fund regardless of whom they are paid to. Payments derived from Fund payments are similarly disregarded indefinitely if they are made to a spouse/partner or child. The disregard is not time-limited, except for derived payments made to either parents or, where the qualifying person is a child, to a guardian. In these circumstances depending upon the status of the qualifying person the disregard will be time limited. For example:

- Any payment made out of the estate of the qualifying person will be disregarded for a maximum of two years, commencing when the payments are made and ending two years from the qualifying person's death.
- Any payment made from the qualifying person will be disregarded indefinitely unless that person dies, at which point the disregard will continue until that person dies, at which point the disregard will continue until the end of two years from that persons death.

- 7.3 This is in line with existing provisions for the Macfarlane and Eileen Trusts and the Skipton fund.
- 7.4 In addition to the amendments to the IRB and SPC Regulations, the Social Fund Maternity and Funeral Expenses Regulations 2005 and Social Security (Recovery of Benefits) Regulations 1997 will also require slight amendments to align the disregard for the LBRCF with the other Trusts and Funds named above.
- 7.5 The Social Security Advisory Committee agreed that these regulations should not be referred to it for formal consultation

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on the costs of business, charities or voluntary bodies.
- 8.2 The impact on the Public sector is negligible.

## **9. Contact**

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