

**2005 No. 574**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous Amendments) Regulations  
2005**

<i>Made</i> - - - -	<i>8th March 2005</i>
<i>Laid before Parliament</i>	<i>14th March 2005</i>
<i>Coming into force</i> - -	<i>4th April 2005</i>

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), (5)(a) and (b), 136A(3), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 12(1), (4)(a) and (b), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(b) and sections 15(1)(j) and (6)(b) and 17(1) of the State Pension Credit Act 2002(c) 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(d), and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(e), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 2005 and shall come into force on 4th April 2005.

(2) In these Regulations—

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

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

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

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

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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 (Transfer of Functions, etc) Act 1999 (c.2).
- (c) 2002 c.16. Section 17(1) is cited because of the meaning given to the words “prescribed” and “regulations”.
- (d) See section 176(1) of the Social Security Administration Act 1992 (c.5).
- (e) See sections 170 and 173(1) of the Social Security Administration Act 1992; paragraph 67 of Schedule 2 to the Jobseekers Act 1995 and paragraph 20 of Schedule II to the State Pension Credit Act added these Acts respectively to the list of “relevant enactments” in respect of which regulations must normally be referred to the Committee.
- (f) S.I. 1992/1814.
- (g) S.I. 1987/1971.
- (h) S.I. 1987/1967.
- (i) S.I. 1996/207.

“the State Pension Credit Regulations” means the State Pension Credit Regulations 2002(a);  
“the 2003 Regulations” means the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003(b).

### **Amendments in relation to the Armed Forces and Reserve Forces Compensation Scheme**

2.—(1) In regulation 2(1) of each of the Income Support Regulations, the Housing Benefit Regulations and the Council Tax Benefit Regulations, regulation 1(3) of the Jobseeker’s Allowance Regulations and regulation 1(2) of the State Pension Credit Regulations (interpretation) at the appropriate place insert the following definitions—

““the Armed Forces and Reserve Forces Compensation Scheme” means the scheme established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004(c);”;

““a guaranteed income payment” means a payment made under article 14(1)(b) or article 21(1)(a) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005(d);”.

(2) In regulation 15(5) of the State Pension Credit Regulations(e) (income for the purposes of the Act) after sub-paragraph (a) insert—

“(aa) a guaranteed income payment;

(ab) a payment made under article 21(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 but only where the condition referred to in article 23(2)(c) is met;”.

(3) The amendments made by paragraph (4) and paragraph (7) in so far as it relates to the provisions specified in paragraph (8)(c) are to the Housing Benefit Regulations as modified in their application to persons to whom regulation 2 of the 2003 Regulations applies and to the Council Tax Benefit Regulations as modified in their application to persons to whom regulation 12 of the 2003 Regulations applies(f).

(4) In regulation 25(1)(g) of the Housing Benefit Regulations and in regulation 17(1)(h) of the Council Tax Benefit Regulations (meaning of “income”) after sub-paragraphs (f) insert—

“(ff) a guaranteed income payment;

(fg) a payment made under article 21(1)(c) of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2005 but only where the condition referred to in article 23(2)(c) is met;”.

(5) In regulations 42(4)(a)(i)(i) and 51(3)(a)(i)(j) of the Income Support Regulations (notional income and notional capital) after the words “benefit Acts,” insert “a payment from the Armed Forces and Reserve Forces Compensation Scheme.”.

(6) In regulations 105(10)(a)(i) and 113(3)(a)(i) of the Jobseeker’s Allowance Regulations(k) (notional income and notional capital) after the words “Benefits Act,” insert “a payment from the Armed Forces and Reserve Forces Compensation Scheme.”.

(7) In each of the provisions specified in paragraph (8)—

(a) after sub-paragraph (c) insert—

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(a) S.I. 2002/1792.

(b) S.I. 2003/325.

(c) 2004 c.32.

(d) S.I. 2005/439

(e) The relevant amending instruments are S.I. 2003/2274 and 2004/2327.

(f) The relevant modifications are made by S.I. 2003/325.

(g) The relevant amending instruments are S.I. 2003/325, 2003/2275 and 2004/2327.

(h) The relevant amending instruments are S.I. 2003/325, 2003/2275 and 2002/2327.

(i) Paragraph (4) was substituted by S.I. 1988/1445. The relevant amending instruments are S.I. 1995/2792, 1995/3282, 1998/2117, 2002/841 and 2003/455.

(j) Paragraph (3) was substituted by S.I. 1988/1445. The relevant amending instruments are S.I. 1997/65, 1998/2117, 2002/841 and 2003/455.

(k) The relevant amending instruments are S.I. 1998/2117, 2002/841 and 2003/455.

- “(cc) a guaranteed income payment;”;
  - (b) in sub-paragraph (d) after the word “pension” insert “or payment”;
  - (c) in sub-paragraph (e) substitute the words “pensions mentioned in sub-paragraphs (a) to (c) above” with “pensions or payments mentioned in sub-paragraphs (a) to (cc) above”.
- (8) The provisions specified for the purposes of paragraph (7) (which relate to the sums to be disregarded in the calculation of income other than earnings) are—
- (a) paragraph 16 of Schedule 9 to the Income Support Regulations(a);
  - (b) paragraphs 14 of Schedule 4 to each of the Housing Benefit Regulations and the Council Tax Benefit Regulations(b);
  - (c) paragraphs 1 of Schedule 4A to each of the Housing Benefit Regulations and the Council Tax Benefit Regulations;
  - (d) paragraph 1 of Schedule IV to the State Pension Credit Regulations(c).
- (9) In paragraph 17 of Schedule 7 to the Jobseeker’s Allowance Regulations (sums to be disregarded in the calculation of income other than earnings)—
- (a) after sub-paragraph (a) insert—
    - “(aa) a guaranteed income payment or a payment made to compensate for the non-payment of a guaranteed income payment;”;
  - (b) in sub-paragraph (b) after head (ii) add—
    - “(iii) or analogous to a guaranteed income payment;”.

### **Amendment of the Income Support Regulations**

- 3.—(1) The Income Support Regulations shall be amended in accordance with this regulation.
- (2) In regulation 2(d) (interpretation)—
- (a) in paragraph (1) omit the definitions of “earnings top-up” and “the Earnings Top-up Scheme”;
  - (b) omit paragraph (4).
- (3) In regulation 42 (notional income)—
- (a) omit paragraph (2)(h)(e);
  - (b) in paragraph (4)(a)(ii)(f) omit the words “or rates”.
- (4) In regulations 51(3)(a)(ii)(g) and 62(2)(e) (which relate respectively to notional capital and calculation of grant income) omit the words “or rates”.
- (5) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 5(h) after the words “housing benefit” where they first appear insert “to which the claimant is entitled”;

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(a) Paragraph 16 was substituted by S.I. 1995/2792.  
 (b) Paragraph 14 was substituted in each set of regulations by S.I. 1995/2792.  
 (c) The relevant amending instrument is S.I. 2003/2274.  
 (d) The relevant amending instrument is S.I. 1996/1944.  
 (e) Sub-paragraph (h) was inserted by S.I. 1996/1944.  
 (f) Paragraph (4) was substituted by S.I. 1988/1445. The relevant amending instruments are S.I. 1989/534, 1990/547, 1990/1776, 1991/1559, 1993/315, 1994/527, 1998/2117 and 2003/455.  
 (g) Paragraph (3) was substituted by S.I. 1988/1445. The relevant amending instruments are S.I. 1989/534, 1997/65, 1998/2117, 2002/841 and 2003/455.  
 (h) Paragraph 5 was amended by S.I. 1996/2431.

- (b) in paragraph 15(2)(a) omit the words “or rates”;
  - (c) in paragraph 27(b)(b) after the word “authority” add “but excluding payments of housing benefit made in respect of the person concerned”.
- (6) In paragraph 7 of Schedule 10(c) (capital to be disregarded) omit sub-paragraph (1)(c).

#### **Amendment of the Housing Benefit Regulations**

- 4.**—(1) The Housing Benefit Regulations shall be amended in accordance with this regulation.
- (2) In regulation 2(d) (interpretation)—
- (a) in paragraph (1) omit the definitions of “earnings top-up”, “the Earnings Top-up Scheme”, “eligible rates”, “rateable unit” and “rates”;
  - (b) omit paragraph (4A).
- (3) The amendment made by paragraph (4) is to the Housing Benefit Regulations as modified in their application to persons to whom regulation 2 of the 2003 Regulations applies(e).
- (4) In regulation 33(2)(d)(ii) (earnings of self-employed earners) after the word “authority” add “but excluding payments of housing benefit made in respect of the person concerned”.
- (5) In paragraphs (3) and (4) of regulation 43A(f) (diminishing notional capital rule) omit sub-paragraph (g).
- (6) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—
- (a) in paragraph 25(b)(g) after the word “authority” add “but excluding payments of housing benefit made in respect of the person concerned”;
  - (b) omit paragraph 60(h).
- (7) In paragraph 8 of Schedule 5(i) (capital to be disregarded) omit sub-paragraph (1)(d).
- (8) In Schedule 6 (matters to be included in the decision notice) omit paragraph 9(1)(a)(j).

#### **Amendment of the Council Tax Benefit Regulations**

- 5.**—(1) The Council Tax Benefit Regulations shall be amended in accordance with this regulation.
- (2) In regulation 2(k) (interpretation)—
- (a) in paragraph (1) omit the definitions of “earnings top-up” and “the Earnings Top-up Scheme”;
  - (b) omit paragraph (4A).
- (3) The amendments made by paragraphs (4) and (5) are to the Council Tax Benefit Regulations as modified in their application to persons to whom regulation 12 of the 2003 Regulations applies(l).

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(a) Paragraph 15 was substituted by S.I. 1990/547. The relevant amending instruments are S.I. 1990/1776, 1991/1559, 1992/3147, 1993/315, 1994/527, 2001/3767, 2002/2442 and 2004/2308.

(b) Paragraph 27 was substituted by S.I. 1998/563.

(c) The relevant amending instruments are S.I. 1996/1944 and 2002/2380.

(d) The relevant amending instrument is S.I. 1996/1944.

(e) The relevant modifications are made by S.I. 2003/325.

(f) Regulation 43A was inserted by S.I. 1990/1775. The relevant amending instrument is S.I. 1996/1944.

(g) Paragraph 25 was substituted by S.I. 1998/563.

(h) Paragraph 60 was inserted by S.I. 1996/1944.

(i) The relevant amending instruments are S.I. 1996/1944 and 2002/2380.

(j) The relevant amending instruments are S.I. 1996/1510, 2001/1605 and 2003/325.

(k) The relevant amending instrument is S.I. 1996/1944.

(l) The relevant modifications are made by S.I. 2003/325.

(4) In regulation 15(4)(f)(a) (calculation of claimant's income in savings credit only cases) for the words "section 134(8) of the Administration Act 1992" substitute "section 139(6) of the Administration Act 1992".

(5) In regulation 25(2)(d)(ii) (earnings of self-employed earners) after the word "authority" add "but excluding payments of housing benefit made in respect of the person concerned".

(6) In paragraphs (3) and (4) of regulation 35(b) (diminishing notional capital rule) omit sub-paragraph (g).

(7) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 26(b)(c) after the word "authority" add "but excluding payments of housing benefit made in respect of the person concerned";

(b) in paragraph 36(d) after the words "housing benefit" where they first appear insert "to which the claimant is entitled";

(c) omit paragraph 59(e).

(8) In paragraph 8 of Schedule 5 (capital to be disregarded) omit sub-paragraph (1)(e)(f).

### **Amendment of the Jobseeker's Allowance Regulations**

6.—(1) The Jobseeker's Allowance Regulations shall be amended in accordance with this regulation.

(2) In regulation 1(3) (relating to interpretation) omit the definitions of "earnings top-up" and "the Earnings Top-up Scheme".

(3) In regulation 103 (calculation of income other than earnings) omit paragraph (4).

(4) In regulation 105(2) (notional income) omit sub-paragraph (f).

(5) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 6 after the word "benefit" add "to which the claimant is entitled";

(b) in paragraph 28(b)(g) after the word "authority" add "but excluding payments of housing benefit made in respect of the person concerned".

(6) In paragraph 12 of Schedule 8(h) (capital to be disregarded) omit sub-paragraph (1)(c).

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

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

9th March 2005

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(a) The relevant amending instruments are S.I. 2003/325, 2003/2275 and 2004/2327.  
(b) Sub-paragraphs (g) were inserted by S.I. 1996/1944.  
(c) Paragraph 26 was substituted by S.I. 1998/563.  
(d) The relevant amending instrument is S.I. 1996/2432.  
(e) Paragraph 59 was inserted by S.I. 1996/1944.  
(f) The relevant amending instruments are S.I. 1996/1944 and 2002/2380.  
(g) Paragraph 28 was substituted by S.I. 1998/563.  
(h) The relevant amending instruments are S.I. 1996/2538 and 2002/2380.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations further amend the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Housing Benefit (General) Regulations 1987 (S.I. 1897/1971), the Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814) and the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) ("the Income-related Benefits Regulations"). These Regulations also further amend the State Pension Credit Regulations 2002 (S.I. 2002/1792) ("the State Pension Credit Regulations").

Regulation 2(1) amends the interpretation provisions of the Income-related Benefits Regulations and the State Pension Credit Regulations in relation to the introduction of the Armed Forces and Reserve Forces Compensation Scheme ("the new scheme") established under section 1(2) of the Armed Forces (Pensions and Compensation) Act 2004 (c.32).

Regulation 2(2) amends regulation 15(5) of the State Pension Credit Regulations 2002 adding certain payments made under the new scheme to the descriptions of income which are prescribed for the purposes of section 15(1)(j) of the State Pension Credit Act 2002 (c.16).

Regulation 2(4) makes similar amendment to the Housing Benefit (General) Regulations 1987 and to the Council Tax Benefit (General) Regulations 1992 as modified by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (S.I. 2003/325) for persons who have attained the qualifying age for state pension credit.

Regulation 2(5) and (6) amends the Income Support (General) Regulations 1987 and the Jobseeker's Allowance Regulations 1996 to include within the notional income and notional capital rules, payments made under the new scheme.

Regulation 2(7) and (8) provides a £10 weekly income disregard for guaranteed income payments made under the new scheme.

The Income-related Benefits Regulations are also amended to—

—remove out of date references to "earnings top-up" and "the Earnings Top-up Scheme" (regulations 3(2), (3)(a) and (6), 4(2), (5), (6)(b) and (7), 5(2), (6), (7)(c) and (8), 6(2) to (4) and (6)).

—exclude from the full income disregard, payments of housing benefit received by claimants direct from a local authority in respect of persons temporarily in their care (regulations 3(5)(a) and (c), 4(4) and (6)(a), 5(5) and (7)(a) and (b) and 6(5)).

The Income Support (General) Regulations 1987 are amended to remove out of date references to domestic "rates" (regulation 3(3)(b), (4) and (5)(b)).

The Housing Benefit (General) Regulations 1987 are also amended to remove references to "rates", "eligible rates" and "rateable unit" (regulation 4 (2)(a) and (8)).

Regulation 5(4) corrects a reference to primary legislation in the Council Tax Benefit (General) Regulations 1992.

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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STATUTORY INSTRUMENTS

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