

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS)(No. 3)
REGULATIONS 2007

2007 No. 1749

- 1** This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.
- 2 Description**
 - 2.1 This instrument updates or removes cross-references to other legislation in the income-related benefits regulations in consequence of changes to tax legislation dealing with pension schemes, personal reliefs and war widowers' pensions.
 - 2.2 The instrument also amends and updates some provisions in the Credits regulations.
- 3 Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
- 4 Legislative Background**
 - 4.1 The main purpose of this instrument is to align references to personal pension schemes in the income-related benefits regulations, with those contained in Part 4 of The Finance Act 2004 (replacing previous references to provisions of the Income and Corporation Taxes Act 1998). The opportunity has also been taken to replace some outdated references in the income related benefits regulations to repealed provisions of Income Tax legislation.
 - 4.2 The income related benefits regulations ("IRB regulations") amended are:
 - Income Support (General) Regulations 1987
 - Jobseeker's Allowance Regulations 1996
 - Council Tax Benefit Regulations 2006
 - Council Tax Benefit (persons who have attained the qualifying age for State Pension Credit) Regulations 2006
 - Housing Benefit Regulations 2006
 - Housing Benefit (persons who have attained the qualifying age for State Pension Credit) Regulations 2006
 - 4.3 The affected Credits regulations are the Social Security (Credits) Regulations 1975
- 5 Territorial Extent and Application**
 - 5.1 This instrument extends to Great Britain.

6 European Convention on Human Rights

As the Instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7 Policy Background

7.1 Definition of “pension fund holder” –

This is amended to reflect changes made in the Finance Act 2004 (“the 2004 Act”) by removing reference to “retirement annuity contract”.

7.2 The definition is expanded to include “Occupational Pension Schemes” following the alignment of occupational pensions with personal pensions made by the 2004 Act.

7.3 Definition of “personal pension scheme”

Following reforms made by the 2004 Act, there is no longer a distinction between personal pension schemes for employed and self-employed earners – they are simply “personal pensions schemes”. The definition is, therefore, brought into line with current legislation.

7.4 Definition of “war widower’s pension”

The current Income Support and Jobseeker’s Allowance regulations offer different definitions of “war widower’s pension”; the Income Support definition also refers to repealed legislation. The definitions are now updated and harmonised.

7.5 Definition of “retirement annuity contract”

Retirement Annuity Contracts were a pre-The 2004 Act method of saving for retirement and, until April 2007, retained a separate tax treatment; from April 2007 they are subsumed into “personal pension schemes”. It is no longer necessary, therefore, to draw any distinction between retirement annuity contracts and personal pension schemes and all references to “retirement annuity contracts” have been removed from the IRB regulations.

7.6 Removal of outdated references to “personal relief”

Income Support and jobseeker’s Allowance regulations explain how a claimant’s income should be calculated when they are self-employed or a participant in the “self-employed route”. The relevant provisions make references to provisions of the Income & Corporation Taxes Act that have been repealed. These references have been updated or removed.

7.7 Amendment of Credits Regulations

The definition of “reckonable year” is amended by inserting references to “widowed parent’s allowance and bereavement benefits” to the list of benefits to which the definition applies.

7.8 In addition, unnecessary words are removed from the regulation that specifies weeks in respect of which a person is entitled to be credited with earnings in respect of incapacity for work.

7.9 Consultation

The Social Security Advisory Committee has agreed that these regulations should not be referred for consultation. The Local Authority Associations were consulted and have no comments.

7.10 Guidance

Guidance on the changes will be provided to appropriate Decision Makers.

7.11 Consolidation

It is not intended to consolidate the relevant regulations. A consolidated text is available online via the DWP website.

8 Regulatory Impact and Costs

8.1 A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of business, charities and voluntary bodies.

8.2 The impact on the public sector is negligible.

9 Contact Details

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