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STATUTORY INSTRUMENTS

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**2009 No. 471**

**SOCIAL SECURITY**

**The Social Security (National Insurance Number Information: Exemption) Regulations 2009**

<i>Made</i>	- - - -	<i>4th March 2009</i>
<i>Laid before Parliament</i>		<i>9th March 2009</i>
<i>Coming into force</i>	- -	<i>6th April 2009</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 1(1C) (a) and (c), 189(1) and (4) and 191 of the Social Security Administration Act 1992<sup>(1)</sup>, makes the following Regulations.

In accordance with section 173(1)(b)(2) of the Social Security Administration Act 1992, the Secretary of State has obtained the agreement of the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it.

In accordance with section 176(1) of the Social Security Administration Act 1992, the Secretary of State has consulted with organisations appearing to the Secretary of State to be representative of the authorities concerned.

**Citation and commencement**

1. These Regulations may be cited as the Social Security (National Insurance Number Information: Exemption) Regulations 2009 and shall come into force on 6th April 2009.

**Amendment of the Social Security (Invalid Care Allowance) Regulations 1976**

2. In regulation 2A of the Social Security (Invalid Care Allowance) Regulations 1976<sup>(3)</sup> (disapplication of section 1(1A) of the Administration Act<sup>(4)</sup>), at the end of paragraph (c) add—

“(d) to an adult dependant who—

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- (1) 1992 c. 5. Section 1(1C) was inserted by section 19 of the Social Security Administration (Fraud) Act 1997 (c. 47). Section 189(1) and (4) was amended by paragraph 109 of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c. 14) and subsection (1) was further amended by paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and Schedule 6 to the Tax Credits Act 2002 (c. 21). Section 191 is cited for the meaning of the word “prescribe”.
- (2) See section 172(1) of the Social Security Administration Act 1992 (c. 5).
- (3) S.I. 1976/409. Regulation 2A was inserted by S.I. 1997/2676, paragraph (a) was revoked by S.I. 2003/937 and the words “carer’s allowance” were substituted by S.I. 2002/2497.
- (4) The Administration Act is defined for the purposes of regulations amended at regulation 2, 3, 4, 7, and 13 in regulation 1(2) of S.I. 1997/2676.

- (i) is a person in respect of whom a claim for an increase of carer's allowance is made;
- (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999<sup>(5)</sup>; and
- (iii) has not previously been allocated a national insurance number.”.

### **Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979**

3. In regulation 1A of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979<sup>(6)</sup> (disapplication of section 1(1A) of the Administration Act for the purposes of retirement pension), at the end of paragraph (b) add—

- “(c) to an adult dependant who—
  - (i) is a person in respect of whom a claim for an increase of retirement pension is made;
  - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999<sup>(7)</sup>; and
  - (iii) has not previously been allocated a national insurance number.”.

### **Amendment of the Social Security (Maternity Allowance) Regulations 1987**

4. For regulation 1A of the Social Security (Maternity Allowance) Regulations 1987<sup>(8)</sup> (disapplication of section 1(1A) of the Administration Act), substitute—

- “1A. Section 1(1A) of the Social Security Administration Act 1992 (requirement to state a national insurance number) shall not apply to an adult dependant who—
  - (a) is a person in respect of whom a claim for an increase of maternity allowance is made;
  - (b) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999<sup>(9)</sup>; and
  - (c) has not previously been allocated a national insurance number.”.

### **Amendment of the Income Support (General) Regulations 1987**

5. In regulation 2A of the Income Support (General) Regulations 1987<sup>(10)</sup> (disapplication of section 1(1A) of the Administration Act), at the end of paragraph (b) add—

- “(c) to a person who—
  - (i) is a person in respect of whom a claim for income support is made;
  - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act;

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<sup>(5)</sup> 1999 c. 33.

<sup>(6)</sup> S.I. 1979/642. Regulation 1A was inserted by S.I. 1997/2676, paragraph (a) was omitted by S.I. 2003/937.

<sup>(7)</sup> 1999 c. 33.

<sup>(8)</sup> S.I. 1987/416. Regulation 1A was inserted by S.I. 1997/2676.

<sup>(9)</sup> 1999 c. 33.

<sup>(10)</sup> S.I. 1987/1967. Regulation 2A was inserted by S.I. 1997/2676, paragraph (a) was revoked with transitional arrangements by S.I. 2003/455.

(iii) is not entitled to any income support for the purposes of section 124 of the Contributions and Benefits Act(11); and

(iv) has not previously been allocated a national insurance number.”.

#### **Amendment of the Social Security (Incapacity Benefit) Regulations 1994**

6. In regulation 2A of the Social Security (Incapacity Benefit) Regulations 1994(12) (disapplication of section 1(1A) of the Administration Act), at the end of paragraph (b) add—

“(c) to an adult dependant who—

(i) is a person in respect of whom a claim for an increase of incapacity benefit is made;

(ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999(13); and

(iii) has not previously been allocated a national insurance number.”.

#### **Amendment of the Jobseeker’s Allowance Regulations 1996**

7. In regulation 2A of the Jobseeker’s Allowance Regulations 1996(14) (disapplication of section 1(1A) of the Administration Act), at the end of paragraph (b) add—

“(c) to a person who—

(i) is a person in respect of whom a claim for jobseeker’s allowance is made;

(ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act;

(iii) is not entitled to any jobseeker’s allowance for the purposes of section 1 of the Act; and

(iv) has not previously been allocated a national insurance number.”.

#### **Amendment of the State Pension Credit Regulations 2002**

8. After regulation 1 of the State Pension Credit Regulations 2002(15) (citation, commencement and interpretation), insert—

##### **“Disapplication of section 1(1A) of the Social Security Administration Act**

1A. Section 1(1A) of the Social Security Administration Act 1992 (requirement to state a national insurance number) shall not apply to a person who—

(a) is a person in respect of whom a claim for state pension credit is made;

(b) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999(16);

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(11) 1992 c. 4. Relevant amendments were made by paragraph 30 of Schedule 2 and Schedule 3 to the Jobseeker’s Act 1995 (c. 18), paragraph 28 of Schedule 8 to the Welfare Reform and Pensions Act 1999 (c. 30), paragraph 2 of Schedule 2 to the State Pension Credit Act 2002 (c. 16) and paragraph 9(9) and (10) of Schedule 3 and Schedule 8 to the Welfare Reform Act 2007 (c. 5).

(12) S.I. 1994/2946. Regulation 2A was inserted by S.I. 1997/2676, paragraph (a) was revoked by S.I. 2003/937.

(13) 1999 c. 33.

(14) S.I. 1996/207. Regulation 2A was inserted by S.I. 1997/2676, paragraph (a) was revoked with transitional arrangements by S.I. 2003/455.

(15) S.I. 2002/1792.

(16) 1999 c. 33.

- (c) does not satisfy the conditions of entitlement to state pension credit as specified in section 1(2); and
- (d) has not previously been allocated a national insurance number.”.

#### **Amendment of the Housing Benefit Regulations 2006**

**9.** In regulation 4 of the Housing Benefit Regulations 2006<sup>(17)</sup> (cases in which section 1(1A) of the Administration Act is disapplied), at the end of paragraph (b) add—

- “(c) to a person who—
- (i) is a person in respect of whom a claim for housing benefit is made;
  - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act;
  - (iii) is a person from abroad for the purposes of these Regulations as defined in regulation 10(2); and
  - (iv) has not previously been allocated a national insurance number.”.

#### **Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

**10.** In regulation 4 of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006<sup>(18)</sup> (cases in which section 1(1A) of the Administration Act is disapplied), at the end of paragraph (b) add—

- “(c) to a person who—
- (i) is a person in respect of whom a claim for housing benefit is made;
  - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act 1999<sup>(19)</sup>;
  - (iii) is a person from abroad for the purposes of these Regulations as defined in regulation 10(2); and
  - (iv) has not previously been allocated a national insurance number.”.

#### **Amendment of the Council Tax Benefit Regulations 2006**

**11.** For regulation 4 of the Council Tax Benefit Regulations 2006<sup>(20)</sup> (disapplication of section 1(1A) of the Administration Act), substitute—

- “**4.** Section 1(1A) of the Administration Act (requirement to state a national insurance number) shall not apply—
- (a) in the case of a child or young person in respect of whom council tax benefit is claimed;
  - (b) to a person who—
    - (i) is a person in respect of whom a claim for council tax benefit is made;
    - (ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act;

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<sup>(17)</sup> S.I. 2006/213.

<sup>(18)</sup> S.I. 2006/214.

<sup>(19)</sup> 1999 c. 33.

<sup>(20)</sup> S.I. 2006/215.

(iii) is a person from abroad for the purposes of these Regulations as defined in regulation 7(2); and

(iv) has not previously been allocated a national insurance number.”.

#### **Amendment of the Council Tax (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

**12.** For regulation 4 of the Council Tax (Persons who have attained the qualifying age for state pension credit) Regulations 2006(21) (section 1(1A) of the Administration Act disapplied), substitute—

“**4.** Section 1(1A) of the Administration Act (requirement to state a national insurance number) shall not apply—

(a) in the case of a child or young person in respect of whom council tax benefit is claimed;

(b) to a person who—

(i) is a person in respect of whom a claim for council tax benefit is made;

(ii) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act;

(iii) is a person from abroad for the purposes of these Regulations as defined in regulation 7(2); and

(iv) has not previously been allocated a national insurance number.”.

#### **Amendment of the Employment and Support Allowance Regulations 2008**

**13.** After regulation 2 of the Employment and Support Allowance Regulations 2008(22) (interpretation), insert—

##### **“Disapplication of section 1(1A) of the Social Security Administration Act 1992**

**2A.** Section 1(1A) of the Social Security Administration Act 1992 (requirement to state a national insurance number) shall not apply to a person who—

(a) is a person in respect of whom a claim for employment and support allowance is made;

(b) is subject to immigration control within the meaning of section 115(9)(a) of the Immigration and Asylum Act;

(c) does not satisfy the basic conditions of entitlement to employment and support allowance for the purposes of section 1(3) of the Act; and

(d) has not previously been allocated a national insurance number.”.

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(21) S.I. 2006/216.

(22) S.I. 2008/794.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

4th March 2009

*Tony McNulty*  
Minister of State,  
Department for Work and Pensions

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## EXPLANATORY NOTE

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

These Regulations amend the Social Security (Invalid Care Allowance) Regulations 1976 (S.I. 1976/409), the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979 (S.I. 1979/642), the Social Security (Maternity Allowance) Regulations 1987 (S.I. 1987/416), the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Social Security (Incapacity Benefit) Regulations 1994 (S.I. 1994/2496), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), the State Pension Credit Regulations 2002 (S.I. 2002/1792), the Housing Benefit Regulations 2006 (S.I. 2006/213), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214), the Council Tax Benefit Regulations 2006 (S.I. 2006/215), the Council Tax (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/216) and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794).

The amendments to these instruments provide that where a person is the partner of a benefit claimant, has no right to enter or remain in the UK, is not entitled to social security benefits and does not already have a national insurance number ("NINO"), the claimant will not be required to state a NINO in relation to that person on a claim form.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.