
STATUTORY INSTRUMENTS

2009 No. 583

**The Social Security (Miscellaneous
Amendments) Regulations 2009**

Amendments to the Employment and Support Allowance Regulations 2008

10.—(1) The Employment and Support Allowance Regulations 2008 are amended as follows.

(2) In—

- (a) regulation 2(1) (interpretation), in paragraphs (a) and (c) of the definition of “training allowance”,
- (b) Schedule 4 (amounts), in paragraph 4(1)(b), and
- (c) Schedule 6 (housing costs), in paragraph 5(13),

before “Scottish Enterprise” insert “Skills Development Scotland,”.

(3) In regulation 91(2)(c) (calculation of earnings derived from employed earner’s employment and income other than earnings) for “income-related” substitute “employment and support”.

(4) In regulation 92 (calculation of earnings of self-employed earners) for paragraph (2) substitute—

- (a) “(2) Where the claimant’s earnings consist of any items to which this paragraph applies those earnings shall be taken into account over a period equal to such number of weeks as is equal to the number obtained (and any fraction shall be treated as a corresponding fraction of a week) by dividing the earnings by the amount of employment and support allowance which would be payable had the payment not been made plus an amount equal to the total of the sums which would fall to be disregarded from the payment under Schedule 7 (earnings to be disregarded) as is appropriate in the claimant’s case;

(b) This paragraph applies to—

- (i) royalties or other sums paid as a consideration for the use of, or the right to use, any copyright, design, patent or trade mark; or
- (ii) any payment in respect of any book registered under the Public Lending Right Scheme 1982 or work made under any international public lending right scheme that is analogous to the Public Lending Right Scheme 1982, where the claimant is the first owner of the copyright, design, patent or trademark, or an original contributor to the book or work concerned.”.

(5) In regulation 93 (date on which income is treated as paid)—

(a) in paragraph (3)—

- (i) before “Working tax credit” insert “Subject to paragraph (4),”;
- (ii) omit “or child tax credit”;
- (iii) at the end of sub-paragraph (a) insert “or”;
- (iv) at the end of sub-paragraph (b) omit “or”;
- (v) omit sub-paragraph (c);

- (b) after paragraph (3) insert—
- “(4) Where working tax credit is paid under regulation 7D (ceasing to undertake work or working less than 16 hours a week) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002⁽¹⁾, it shall be treated as paid on the first day of the benefit week in which that award of tax credit begins; but this paragraph shall only apply until the last day of the last benefit week that coincides with or precedes the last day for which tax credit is awarded under that regulation.”.
- (6) In regulation 94(1) (calculation of weekly amount of income) for sub-paragraph (b)(iii) substitute—
- “(iii) in a case where that period is a year and the payment is an award of working tax credit, by dividing the payment by the number of days in the year and multiplying the result by 7;
- (iii) in a case where that period is a year and the payment is income other than an award of working tax credit, by dividing the amount of the payment by 52;”.
- (7) In regulation 131(1) (interpretation) for the definition of “contribution” substitute—
- ““contribution” means—
- (a) any contribution in respect of the income of a student or any person which the Secretary of State, the Scottish Ministers or an education authority takes into account in ascertaining the amount of a student’s grant or student loan; or
- (b) any sums, which in determining the amount of a student’s allowance or bursary in Scotland under the Education (Scotland) Act 1980, the Scottish Ministers or education authority takes into account being sums which the Scottish Ministers or education authority consider that it is reasonable for the following persons to contribute towards the holder’s expenses—
- (i) the holder of the allowance or bursary;
- (ii) the holder’s parents;
- (iii) the holder’s parent’s spouse, civil partner or a person ordinarily living with the holder’s parent as if he or she were the spouse or civil partner of that parent; or
- (iv) the holder’s spouse or civil partner;”.
- (8) In regulation 132(2) (calculation of grant income), after sub-paragraph (i) add—
- “(j) of higher education bursary for care leavers made under Part III of the Children Act 1989.”.
- (9) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings), in paragraph 53 omit “under the Community Care (Direct Payments) Act 1996 or”.
- (10) Schedule 9 (capital to be disregarded)—
- (a) after paragraph 38 insert—
- “**38A.** Any payment made under Part 8A of the Social Security Contributions and Benefits Act 1992 (entitlement to health in pregnancy grant).”;
- (b) in paragraph 56 omit “the Community Care (Direct Payments) Act 1996,”.

(1) [S.I. 2002/2005](#). Regulation 7D was inserted by [S.I. 2007/968](#).