

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (SCOTTISH INFECTED BLOOD SUPPORT SCHEME)
REGULATIONS 2017

2017 No. 329

1. Introduction

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

2. Purpose of the instrument

- 2.1 This instrument makes amendments to various sets of Regulations to recognise the introduction of a new Scottish Infected Blood Support Scheme from 1st April 2017, and to ensure payments made by this scheme are fully disregarded for the purpose of calculating eligibility for income-related legacy benefits and Universal Credit and are also exempt from the Department's compensation recovery scheme.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 In March 2016 the Scottish Government undertook a financial review of the existing UK-wide support schemes for infected individuals. As a result, in future these services will be consolidated and rationalised into a single scheme for Scotland. The new Scottish Infected Blood Support Scheme (SIBSS) will be operational from 1st April 2017 and will be administered by NHS National Services Scotland (NSS), legally known as the Common Services Agency. NSS is an NHS Board accountable to Scottish Ministers.
- 4.2 This instrument amends Regulations relating to certain income-related benefits to provide for an income and capital disregard in respect of payments made by the new SIBSS, in the same way as payments to those infected with contaminated blood by existing UK-wide schemes are currently disregarded.
- 4.3 This instrument also exempts payments from the new SIBSS from the Department's compensation recovery scheme.

5. Extent and Territorial Application

- 5.1 The extent and territorial application of this instrument is Great Britain.

5.2 Subject to the agreement of the Northern Ireland Assembly, the Department for Communities in Northern Ireland will be making corresponding provision for Northern Ireland.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 In the UK five payment schemes currently provide financial support to people infected with HIV and/or hepatitis C following NHS treatment with contaminated blood in the 1970-80s. These are run by the following organisations: The Eileen Trust, The Macfarlane Trust, MFET Ltd, The Skipton Fund and The Caxton Foundation¹.
- 7.2 These payments are fully disregarded for the purposes of calculating eligibility for income-related legacy benefits and Universal Credit as they do not supplement income in the way that those benefits do. Such payments are also exempt from the Department's compensation recovery scheme.
- 7.3 The various social security benefits have different rules of entitlement and income/capital requirements. However, these benefits do have exceptions which allow some sources of income and capital to be disregarded. All payment made to individuals via the schemes mentioned above are currently fully disregarded for the purposes of calculating eligibility for income-related benefits as they do not supplement income in the way that those benefits do but are intended to compensate 'infected persons' and their relatives in recognition that the physical, mental and other health impacts for those infected can lead to additional costs which cannot be met through the benefits system. Entitlement to contributory benefits is not affected by such payments. Such payments are also exempt from the DWP compensation recovery scheme.
- 7.4 This instrument ensures that payments made by the new Scottish Infected Blood Support Scheme (SIBSS), operational from 1st April 2017, will also be disregarded in the same way, and will be exempt from compensation recovery.
- 7.5 The Department does not hold information in relation to income-related benefits on individuals receiving support from the existing schemes as there is no requirement for claimants to declare such payments. We cannot therefore identify precisely how many benefit claims will be affected by the proposed changes. However, Scottish Government data suggests that fewer than 600 people will be affected by the introduction of the SIBSS. It follows that the number of income-related benefit claimants in respect of whom payments from the SIBSS may need to be disregarded will be in line with or lower than this figure. Eligibility for support from the new SIBSS is restricted to those already infected with contaminated blood, and to widows/widowers/civil partners and dependent children of infected people who die or have died, so low numbers of new beneficiaries of the SIBSS are anticipated

¹www.macfarlane.org.uk; www.skiptonfund.org/payments; www.caxtonfoundation.org.uk

- 7.6 This instrument makes amendments to the Income Support (General) Regulations 1987 (S.I. 1987/1967)², the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207)³, the State Pension Credit Regulations 2002 (S.I. 2002/1792)⁴, the Housing Benefit Regulations 2006 (S.I.2006/213)⁵, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214)⁶, and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794)⁷ to provide that payments made by the new SIBSS are disregarded for the purpose of calculating entitlement to these benefits in the same way as payments made by the existing UK schemes because they are not specifically for a purpose for which benefits are intended.
- 7.7 This instrument also exempts the new SIBSS from the Department's compensation recovery scheme via amendments to the Social Security (Recovery of Benefits) Regulations 1997 (S.I. 1997/2205)⁸ and the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 (S.I. 2008/1596)⁹.
- 7.8 Although the new SIBSS will be in operation from 1st April 2017, no payments from the new scheme will be made before 3rd April 2017 when this instrument comes into force.

Consolidation

- 7.9 Informal consolidation of new instruments is available to the public free of charge via the National Archives website: <http://www.legislation.gov.uk/>.

8. Consultation outcome

- 8.1 We have consulted the Local Authority Associations¹⁰ (LAAs) as the changes have an effect on Housing Benefit Regulations. The LAAs had no comments.
- 8.2 The Social Security Advisory Committee decided that it did not require the proposed changes to be formally referred to it and, accordingly, the Committee did not conduct a public consultation exercise on them.

9. Guidance

- 9.1 A guidance bulletin detailing these changes will be issued to decision makers in the Department for Work and Pensions, and to Local Authority operational staff, in advance of this statutory instrument coming into force.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.

² http://www.legislation.gov.uk/ukSI/1987/1967/pdfs/ukSI_19871967_300916_en.pdf

³ http://www.legislation.gov.uk/ukSI/1996/207/pdfs/ukSI_19960207_300916_en.pdf

⁴ http://www.legislation.gov.uk/ukSI/2002/1792/pdfs/ukSI_20021792_300916_en.pdf

⁵ http://www.legislation.gov.uk/ukSI/2006/213/pdfs/ukSI_20060213_311216_en.pdf

⁶ http://www.legislation.gov.uk/ukSI/2006/214/pdfs/ukSI_20060214_300916_en.pdf

⁷ http://www.legislation.gov.uk/ukSI/2008/794/pdfs/ukSI_20080794_300916_en.pdf

⁸ <http://www.legislation.gov.uk/ukSI/1997/2205>

⁹ http://www.legislation.gov.uk/ukSI/2008/1596/pdfs/ukSI_20081596_301114_en.pdf

¹⁰ There are four LAAs representing local authorities' interests: the Local Government Association, London Councils, Welsh Local Government Association and Convention of Scottish Local Authorities.

10.2 The impact on the public sector is negligible. Scottish Government data suggests that fewer than 600 people will be affected by the introduction of the SIBSS. It follows that the number of income related benefit claimants in respect of whom payments from the SIBSS may need to be disregarded will be in line with or lower than this figure.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

12.1 No specific monitoring and review of the new claims process will be carried out above and beyond what which is already in place as part of the Department's routine data collection.

13. Contact

13.1 Joanne Ward at the Department for Work and Pensions, Telephone: 020 7449 5039 or Email: Joanne.Ward@dpw.gsi.gov.uk can answer any queries regarding this instrument.