

2017 No. 995

SOCIAL SECURITY

CHILD SUPPORT

**The Social Security and Child Support (Care Payments and
Tenant Incentive Scheme) (Amendment) Regulations 2017**

<i>Made</i> - - - -	<i>16th October 2017</i>
<i>Laid before Parliament</i>	<i>17th October 2017</i>
<i>Coming into force</i> - -	<i>7th November 2017</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 3(3)(c), 42 and 52(4) of, and paragraph 5 of Schedule 1 to, the Child Support Act 1991(a), sections 123(1)(a) and (d), 130(2), 136(3) and (5)(b), 136A(3), 137(2)(d) and 175(3) to (5) of the Social Security Contributions and Benefits Act 1992(b), sections 12(1) and (4)(b) and 36(2) of, and paragraph 1(2)(b) of Schedule 1 to, the Jobseekers Act 1995(c), section 15(3) and (6)(b) of the State Pension Credit Act 2002(d) and sections 17(3)(b) and 25(2) and (3) of, and paragraph 10 of Schedule 2 to, the Welfare Reform Act 2007(e).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(f), the Social Security Advisory Committee has agreed that the proposals in respect of Parts 2, 3 and 5 of these Regulations should not be referred to it.

In accordance with section 176(1) of that Act (g), the Secretary of State has consulted, in relation to regulations 5, 6, and 12 and Part 5, with organisations appearing to the Secretary of State to be representative of the authorities concerned. Those organisations have agreed that consultation in respect of those regulations need not be undertaken.

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- (a) 1991 c.48. Part 1 of Schedule 1 is substituted by provision made in section 1(1) of the Child Support, Pensions and Social Security Act 2000 (c.19) in the cases specified in S.I. 2003/192. See section 54(1) for the meaning of “prescribed”.
- (b) 1992 c.4 (“the SSCBA”). Section 136A(3) is inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act 2002 (c.16). See section 137(1) for the meaning of “prescribed”.
- (c) 1995 c.18. See section 35(1) for the meanings of “prescribed” and “regulations”.
- (d) Section 19(1) applies section 175(3) and (4) of the SSCBA to regulations made under this Act as those provisions apply to regulations made under the SSCBA. See section 17(1) for the meanings of “prescribed” and “regulations”.
- (e) 2007 c.5. See section 24(1) for the meanings of “prescribed” and “regulations”.
- (f) 1992 c.5.
- (g) Section 176(1)(b) was amended by paragraph 3(4) of Schedule 13 to the Housing Act 1996 and was repealed, to the extent that it related to council tax benefit, by section 147 of, and paragraph 1 of Schedule 14 to, the Welfare Reform Act 2012 (c.5) with effect from 1st April 2013 and subject to savings and transitional provisions in articles 9 and 10 of S.I. 2013/358.

PART 1
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017 and come into force on 7th November 2017.

PART 2
AMENDMENTS RELATING TO THE TREATMENT OF KINSHIP CARE
ASSISTANCE IN SOCIAL SECURITY BENEFITS

Amendment of the Income Support (General) Regulations 1987

- 2.—(1) The Income Support (General) Regulations 1987(a) are amended as follows.
- (2) In regulation 37(2)(b) (earnings of self-employed earners)—
- (a) for “26 or 27” substitute “26, 27 or 27A”;
 - (b) for “and payments” substitute “, payments”;
 - (c) after “claimant’s care” insert “and any payments made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (b) (kinship care assistance)”.
- (3) After paragraph 27 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) insert—
- “27A.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).”.
- (4) At the end of Schedule 10 (capital to be disregarded) insert—
- “74.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).”.

Amendment of the Jobseeker’s Allowance Regulations 1996

- 3.—(1) The Jobseeker’s Allowance Regulations 1996(c) are amended as follows.
- (2) In regulation 100(2)(b) (earnings of self-employed earners)—
- (a) for “27 or 28” substitute “27, 28 or 28A”;
 - (b) for “and payments” substitute “, payments”;
 - (c) after “claimant’s care” insert “and any payments made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance)”.
- (3) After paragraph 28 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings) insert—
- “28A.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).”.
- (4) At the end of Schedule 8 (capital to be disregarded) insert—

(a) S.I. 1987/1967. Relevant amending instruments are S.I. 1994/2139, 2008/698 and 2017/870.
(b) 2014 asp 8.
(c) S.I. 1996/207. Relevant amending instrument is S.I. 2017/422.

“67. Any payments made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).”.

Amendment of the State Pension Credit Regulations 2002

4.—(1) The State Pension Credit Regulations 2002(a) are amended as follows.

(2) In regulation 17B(4)(b) (earnings of self-employed earners), in the text of the inserted paragraph (2), after paragraph (da) insert—

“(db) any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).”.

Amendment of the Housing Benefit Regulations 2006

5.—(1) The Housing Benefit Regulations 2006(b) are amended as follows.

(2) In regulation 37(2) (earnings of self-employed earners)—

(a) for “26 or 27” substitute “26, 27 or 27A”;

(b) for “and payments” substitute “, payments”;

(c) after “claimant’s care” insert “and any payments made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance)”.

(3) After paragraph 27 of Schedule 5 (sums to be disregarded in the calculation of income other than earnings) insert—

“27A. Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).”.

(4) At the end of Schedule 6 (sums to be disregarded in the calculation of capital) insert—

“64. Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).”.

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

6.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(c) are amended as follows.

(2) After regulation 38(2)(da) (earnings of self-employed earners) insert—

“(db) any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).”.

Amendment of the Employment and Support Allowance Regulations 2008

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

(2) In regulation 40(2)(d) (a claimant who works to be treated as not entitled to an employment and support allowance), for “28 or 29” substitute “28, 29 or 29A”.

(3) In regulation 97(2)(b) (earnings of self-employed earners)—

(a) for “28 or 29” substitute “28, 29 or 29A”;

(b) for “and payments” substitute “, payments”;

(a) S.I. 2002/1792. Relevant amending instruments are S.I. 2002/3019 and 2017/870.

(b) S.I. 2006/213. Relevant amending instrument is S.I. 2017/870.

(c) S.I. 2006/214. Relevant amending instrument is S.I. 2016/732.

(d) S.I. 2008/794. Relevant amending instrument is S.I. 2017/870.

(c) after “claimant’s care)” insert “and any payments made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance)”.

(4) After paragraph 29 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) insert—

“**29A.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).”.

(5) At the end of Schedule 9 (sums to be disregarded in the calculation of capital) insert—

“**61.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).”.

Amendment of the Jobseeker’s Allowance Regulations 2013

8.—(1) The Jobseeker’s Allowance Regulations 2013(**a**) are amended as follows.

(2) In regulation 60(2) (earnings of self-employed earners), after paragraph (b) insert—

“(ba) any payment made to the claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance);”.

Amendment of the Employment and Support Allowance Regulations 2013

9.—(1) The Employment and Support Allowance Regulations 2013(**b**) are amended as follows.

(2) In regulation 37(7) (a claimant who works to be treated as not entitled to an employment and support allowance), after paragraph (a) insert—

“(aa) any payment made to the claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance);”.

PART 3

AMENDMENTS RELATING TO THE TREATMENT OF CONTINUING CARE PAYMENTS IN SOCIAL SECURITY BENEFITS

Amendment of the Income Support (General) Regulations 1987

10.—(1) The Income Support (General) Regulations 1987 are amended as follows.

(2) In regulation 6 (persons not treated as engaged in remunerative work), in paragraph (1), after sub-paragraph (k) insert—

“(ka) he is engaged in caring for a person who is provided with continuing care by a local authority by virtue of arrangements made under section 26A of the Children (Scotland) Act 1995(**c**) (duty to provide continuing care) and is in receipt of a payment made under that section of that Act;”.

(3) In regulation 37 (earnings of self-employed earners)—

(a) in paragraph (2), after sub-paragraph (b) insert—

“(ba) any payment made in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care)—

(i) to a claimant; or

(a) S.I. 2013/378 to which there are amendments which are not relevant to these Regulations.

(b) S.I. 2013/379 to which there are amendments which are not relevant to these Regulations.

(c) 1995 c.36. Section 26A is inserted by section 67(1) of the Children and Young People (Scotland) Act 2014 (asp 8).

- (ii) where paragraph (3) applies, to another person (“A”) which A passes on to the claimant;”;
- (b) after paragraph (2) insert—
 - “(3) This paragraph applies only where A—
 - (a) was formerly in the claimant’s care;
 - (b) is aged 16 or over; and
 - (c) continues to live with the claimant.”.

Amendment of the Jobseeker’s Allowance Regulations 1996

11.—(1) The Jobseeker’s Allowance Regulations 1996 are amended as follows.

(2) In regulation 53 (persons treated as not engaged in remunerative work), after paragraph (f) insert—

“(fa)he is engaged in caring for a person who is provided with continuing care by a local authority by virtue of arrangements made under section 26A of the Children (Scotland) Act 1995 and is in receipt of a payment made under that section of that Act;”.

(3) In regulation 100 (earnings of self-employed earners)—

(a) in paragraph (2), after sub-paragraph (b) insert—

“(ba) any payment made in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care)—

(i) to a claimant; or

(ii) where paragraph (3) applies, to another person (“A”) which A passes on to the claimant;”;

(b) after paragraph (2) insert—

“(3) This paragraph applies only where A—

(a) was formerly in the claimant’s care;

(b) is aged 16 or over; and

(c) continues to live with the claimant.”.

Amendment of the Housing Benefit Regulations 2006

12.—(1) The Housing Benefit Regulations 2006 are amended as follows.

(2) In regulation 37 (earnings of self-employed earners)—

(a) in paragraph (1), for “paragraph (2)” substitute “paragraphs (2) and (2A)”;

(b) after paragraph (2) insert—

“(2A) Earnings shall also not include any payment made in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care)—

(a) to a claimant; or

(b) where paragraph (2B) applies, to another person (“A”) which A passes on to the claimant.

(2B) This paragraph applies only where A—

(a) was formerly in the claimant’s care;

(b) is aged 16 or over; and

(c) continues to live with the claimant.”.

Amendment of the Employment and Support Allowance Regulations 2008

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

(2) In regulation 40 (a claimant who works to be treated as not entitled to an employment and support allowance), in paragraph (2), after sub-paragraph (d) insert—

“(da) duties undertaken in caring for another person who is provided with continuing care by a local authority by virtue of arrangements made under section 26A of the Children (Scotland) Act 1995 and is in receipt of a payment made under that section of that Act;”.

(3) In regulation 97 (earnings of self-employed earners)—

(a) in paragraph (2), after sub-paragraph (b) insert—

“(ba) any payment made in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care)—

(i) to a claimant; or

(ii) where paragraph (3) applies, to another person (“A”) which A passes on to the claimant;”;

(b) after paragraph (2) insert—

“(3) This paragraph applies only where A—

(a) was formerly in the claimant’s care;

(b) is aged 16 or over; and

(c) continues to live with the claimant.”.

Amendment of the Jobseeker’s Allowance Regulations 2013

14.—(1) The Jobseeker’s Allowance Regulations 2013 are amended as follows.

(2) In regulation 60(2) (earnings of self-employed earners), in sub-paragraph (b), in paragraph (ii)—

(a) after “26” insert “or 26A”;

(b) after “local authority” in the second place where it occurs insert “and duty to provide continuing care”.

Amendment of the Employment and Support Allowance Regulations 2013

15.—(1) The Employment and Support Allowance Regulations 2013(a) are amended as follows.

(2) In regulation 37(7) (a claimant who works to be treated as not entitled to an employment and support allowance), in sub-paragraph (a), in paragraph (ii)—

(a) after “26” insert “or 26A”;

(b) after “local authority” in the second place where it occurs insert “and duty to provide continuing care”.

(a) S.I. 2013/379 to which there are amendments which are not relevant to these Regulations.

PART 4

AMENDMENTS TO CHILD SUPPORT LEGISLATION RELATING TO KINSHIP CARE PAYMENTS AND CONTINUING CARE PAYMENTS

Amendment of the Child Support (Maintenance Assessment Procedure) Regulations 1992

16.—(1) The Child Support (Maintenance Assessment Procedure) Regulations 1992(a) are amended as follows.

(2) In regulation 51 (persons who are not persons with care), in paragraph (1), after subparagraph (b) insert—

“(ba) in Scotland, a family or relative with whom a child is placed by a local authority under the provisions of section 26 of the Children (Scotland) Act 1995 or who is providing continuing care by virtue of arrangements made under section 26A of that Act.”.

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992

17.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations 1992(b) are amended as follows.

(2) In Schedule 2 (amounts to be disregarded when calculating or estimating M or N), after paragraph 29 insert—

“**29A.** Any payment made to a person under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).

29B. Any payment made to a family or relative with whom a child is placed by a local authority under the provisions of section 26 of the Children (Scotland) Act 1995 or who is providing continuing care by virtue of arrangements made under section 26A of that Act.”.

Amendment of the Child Support (Maintenance Calculation Procedure) Regulations 2001

18.—(1) The Child Support (Maintenance Calculation Procedure) Regulations 2001(c) are amended as follows.

(2) In regulation 21 (persons who are not persons with care), in paragraph (1), at the end of subparagraph (c) insert “or who is providing continuing care by virtue of arrangements made under section 26A of that Act”.

Amendment of the Child Support Maintenance Calculation Regulations 2012

19.—(1) The Child Support Maintenance Calculation Regulations 2012(d) are amended as follows.

(2) In regulation 78 (persons who are not persons with care), in paragraph (1)(c), after “1995” insert “or who is providing continuing care by virtue of arrangements made under section 26A of that Act”.

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- (a) S.I. 1992/1813 to which there are amending instruments not relevant to these Regulations. These Regulations are revoked but saved in relation to certain cases by S.I. 2001/157 and 2012/2785.
- (b) S.I. 1992/1815. Relevant amending instruments are S.I. 2005/785 and 2012/2785. These Regulations are revoked but saved in relation to certain cases by S.I. 2001/155 and 2012/2785.
- (c) S.I. 2001/157 to which there are amendments which are not relevant to these Regulations. These Regulations are revoked but saved in relation to certain cases by S.I. 2012/2785.
- (d) S.I. 2012/2677; relevant amending instrument is S.I. 2017/901.

PART 5

AMENDMENTS RELATING TO THE TENANT INCENTIVE SCHEME

Amendment of the Housing Benefit Regulations 2006

20.—(1) The Housing Benefit Regulations 2006 are amended as follows.

(2) In regulation 12 (rent)(a), after paragraph (2) insert—

“(2A) Where a reduction in any of the payments listed in paragraph (1) for which a person would otherwise be liable is applied by a provider of social housing under an approved tenant incentive scheme, for the purposes of paragraph (1) the amount of the payment is to be treated as if no such reduction has been applied.

(2B) For the purposes of paragraph (2A)—

“approved tenant incentive scheme” means a scheme which is—

- (a) operated by a provider of social housing and designed to avoid rent arrears by allowing reductions in the payments listed at paragraph (1) or other advantages in return for meeting specified conditions; and
- (b) approved by the Secretary of State;

“provider of social housing” means—

- (a) a local authority;
- (b) a non-profit registered provider of social housing**(b)**;
- (c) in relation to accommodation which is social housing, a profit-making registered provider of social housing;
- (d) a registered social landlord;

“registered social landlord” means—

- (a) a body which is registered in the register maintained by the Welsh Ministers under Chapter 1 of Part 1 of the Housing Act 1996**(c)**;
- (b) a body which is registered in the register maintained by the Scottish Housing Regulator under the Housing (Scotland) Act 2010**(d)**;

“social housing” has the meaning given in section 68 of the Housing and Regeneration Act 2008**(e)**.”.

(a) Relevant amending instruments are S.I. 2007/1356 and 2868.

(b) See section 80 of the Housing and Regeneration Act 2008 (c.17) for the definition of “registered provider of social housing”.

(c) 1996 c.38. Section A1, inserted by section 61(2) of the Housing and Regeneration Act 2008, applies that Chapter to the registration of social landlords in Wales.

(d) 2010 asp 17.

(e) 2008 c.17.

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

21.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 are amended as follows.

(2) In regulation 12 (rent)(a), after paragraph (2) insert—

“(2A) Where a reduction in any of the payments listed in paragraph (1) for which a person would otherwise be liable is applied by a provider of social housing under an approved tenant incentive scheme, for the purposes of paragraph (1) the amount of the payment is to be treated as if no such reduction has been applied.

(2B) For the purposes of paragraph (2A)—

“approved tenant incentive scheme” means a scheme which is—

- (a) operated by a provider of social housing and designed to avoid rent arrears by allowing reductions in the payments listed at paragraph (1) or other advantages in return for meeting specified conditions; and
- (b) approved by the Secretary of State;

“provider of social housing” means—

- (a) a local authority;
- (b) a non-profit registered provider of social housing;
- (c) in relation to accommodation which is social housing, a profit-making registered provider of social housing;
- (d) a registered social landlord;

“registered social landlord” means—

- (a) a body which is registered in the register maintained by the Welsh Ministers under Chapter 1 of Part 1 of the Housing Act 1996;
- (b) a body which is registered in the register maintained by the Scottish Housing Regulator under the Housing (Scotland) Act 2010;

“social housing” has the meaning given in section 68 of the Housing and Regeneration Act 2008.”.

Amendment of the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006

22.—(1) The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations (b) are amended as follows.

(2) In paragraph 5 of Schedule 3 (transitional and savings provisions), in the substituted regulation 12 (rent) as set out in sub-paragraph (1) of that paragraph, after paragraph (6) insert—

“(6A) Where a reduction in any of the payments listed in paragraph (1) for which a person would otherwise be liable is applied by a provider of social housing under an approved tenant incentive scheme, for the purposes of paragraph (1) the amount of the payment is to be treated as if no such reduction has been applied.

(6B) For the purposes of paragraph (6A)—

“approved tenant incentive scheme” means a scheme which is—

- (a) operated by a provider of social housing and designed to avoid rent arrears by allowing reductions in the payments listed at paragraph (1) or other advantages in return for meeting specified conditions; and

(a) Relevant amending instruments are S.I. 2007/1356 and 2869.

(b) S.I. 2006/217.

- (b) approved by the Secretary of State;
- “provider of social housing” means—
- (a) a local authority;
 - (b) a non-profit registered provider of social housing;
 - (c) in relation to accommodation which is social housing, a profit-making registered provider of social housing;
 - (d) a registered social landlord;
- “registered social landlord” means—
- (a) a body which is registered in the register maintained by the Welsh Ministers under Chapter 1 of Part 1 of the Housing Act 1996;
 - (b) a body which is registered in the register maintained by the Scottish Housing Regulator under the Housing (Scotland) Act 2010;
- “social housing” has the meaning given in section 68 of the Housing and Regeneration Act 2008.”.

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

Caroline Dinéage
Parliamentary Under-Secretary of State
Department for Work and Pensions

16th October 2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend social security and child support regulations.

The amendments made by Part 2 provide that, for the purpose of entitlement to social security benefits, payments made to a person as part of kinship care assistance by virtue of section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (asp 8) (“the 2014 Act”) are to be disregarded or as the case may be, not taken into account as earnings, income other than earnings and as capital.

The amendments made by Part 3 relate to payments made by local authorities to persons who are providing “continuing care” by virtue of arrangements made under section 26A of the Children (Scotland) Act 1995 (c.36) (inserted by the 2014 Act). They provide that such payments are not to be taken into account as earnings for the purpose of entitlement to social security benefits and that persons receiving such payments are not to be regarded as being in remunerative work for the purpose of entitlement to certain social security benefits.

The amendments made by Part 4 provide that payments for kinship care or to those who are providing continuing care as referred to above are to be disregarded for certain child support purposes and that certain persons are not to be treated as persons with care in relation to liability for child support.

Part 5 amends provisions of 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) and the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217) which set out categories of payments which qualify as rent for housing benefit purposes. The amendments provide that any reduction in the claimant’s rent that has been applied by a provider of social housing under an incentive scheme approved by the Secretary of State is to be disregarded in calculating rent.

An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.

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