

**2011 No. 674**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous Amendments) Regulations  
2011**

*Made* - - - - *5th March 2011*

*Laid before Parliament* *10th March 2011*

*Coming into force in accordance with regulation 1(2) to (4)*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by—

—sections 30E(1), 123(1)(a), (d) and (e), 135(1), 136(3) and (5)(b), 137(1), 171A(2), 171D(2) and 175(1), (3) and (4) of, and paragraph 2(3) of Schedule 7 to, the Social Security Contributions and Benefits Act 1992(a),

—sections 2A(1), (6) and (8), 5(1)(p), 15A(2)(a), 189(1),(4) and (5) and 191 of the Social Security Administration Act 1992(b),

—sections 4(5), 12(1), 35(1) and 36(2) and (4) of, and paragraph 3 of Schedule 1 to, the Jobseekers Act 1995(c),

—sections 10(6), 79(4) and (6) and 84 of the Social Security Act 1998(d), and

—sections 3(2)(d), 4(2), 17(1) and (3)(b), 24(1) and 25(2) and (5) of, and paragraphs 1, 4, 9 and 10 of Schedule 2 to, the Welfare Reform Act 2007(e).

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- (a) 1992 c. 4. Section 30E was inserted by section 3(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18). Section 123(1)(e) was substituted by paragraph 1(1) of Schedule 9 to the Local Government Finance Act 1992 (c. 14). Section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”. Section 175(1) was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2).
- (b) 1992 c. 5. Section 2A was inserted by the Welfare Reform and Pensions Act 1999 (c. 30), section 57. Section 15A was inserted by paragraph 1 of the Schedule to the Social Security (Mortgage Interest Payments) Act 1992 (c. 33). Section 15A(4) is an interpretation provision and is cited because of the meaning given to the phrase “relevant benefits” and this definition was amended by paragraph 40 of Schedule 2 to the Jobseekers Act 1995, paragraphs 8 and 9 of Schedule 2 to the State Pension Credit Act 2002 (c.16) and paragraph 10 of Schedule 3 to the Welfare Reform Act 2007 (c. 5). Sections 189(1) and (4) were amended by paragraph 109 of Schedule 7 and by Schedule 8 to the Social Security Act 1998 (c. 14). Section 189(1) was also amended by paragraphs 57(1) and (2) of Schedule 3 to the Social Security (Transfer of Functions, etc.) Act 1999 and Schedule 6 to the Tax Credits Act 2002 (c. 21). Section 191 is an interpretation provision and is cited because of the meaning given to the word “prescribe”.
- (c) 1995 c. 18. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.
- (d) 1998 c. 14. Section 84 is cited because of the meaning given to the word “prescribed”.
- (e) 2007 c. 5. Section 24(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, the Secretary of State has obtained the agreement of the Social Security Advisory Committee and the Industrial Injuries Advisory Council that proposals in respect of these Regulations should not be referred to them.

In respect of the provisions in these Regulations relating to housing benefit and council tax benefit, the Secretary of State has consulted with organisations appearing to the Secretary of State to be representative of the authorities concerned(a).

### **Citation and commencement**

**1.**—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 2011.

(2) Regulations 1 and 12 to 15 come into force on 4th April 2011 in relation to any case where rent is payable at intervals of a week or any multiple of whole weeks, and in any other case on 1st April 2011.

(3) Regulations 3(5) and (6)(a), 7(6) and (7)(c), 11 and 16(11)(a), (12) and (13), so far as they relate to a particular claimant, come into force on the first day of the first benefit week to commence for that claimant on or after 11th April 2011.

(4) All other regulations come into force on 11th April 2011.

(5) In this regulation “benefit week” has the same meaning—

- (a) for income support, as in regulation 2(1) (interpretation) of the Income Support (General) Regulations 1987(b);
- (b) for jobseeker’s allowance, as in regulation 1(3) (citation, commencement and interpretation) of the Jobseeker’s Allowance Regulations 1996(c); and
- (c) for employment and support allowance, as in regulation 2(1) (interpretation) of the Employment and Support Allowance Regulations 2008(d).

### **Amendments to the Social Security (General Benefit) Regulations 1982**

**2.** For regulation 16 of the Social Security (General Benefit) Regulations 1982(e) (earnings level for the purposes of unemployability supplement under section 58 of the Social Security Act 1975) substitute—

“**16.**—(1) For the purposes of section 58(3) (earnings level that does not disqualify for unemployability supplement) the prescribed amount of earnings in a year is determined as follows—

- (a) multiply the National Minimum Wage by 16;
- (b) where the amount determined by the calculation in sub-paragraph (a) would, but for this sub-paragraph, include an amount of—
  - (i) less than 50p, the amount determined under sub-paragraph (a) shall be rounded up to the nearest 50p, or
  - (ii) less than £1 but more than 50p, the amount determined under sub-paragraph (a) shall be rounded up to the nearest £1; and
- (c) multiply the amount resulting from sub-paragraph (a) or (b) by 52.

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(a) See section 176(1) of the Social Security Administration Act 1992.

(b) S.I. 1987/1967.

(c) S.I. 1996/207. The definition of “benefit week” was substituted by regulation 3 of S.I. 2009/604.

(d) S.I. 2008/794.

(e) S.I.1982/1408. Regulation 16 was most recently amended by regulation 2 of S.I. 2010/2126.

(2) In this regulation “National Minimum Wage” means the rate of the national minimum wage specified in regulation 11 of the National Minimum Wage Regulations 1999(a) (rate of the national minimum wage).”.

### **Amendments to the Income Support (General) Regulations 1987**

**3.—**(1) The Income Support (General) Regulations 1987(b) are amended as follows.

(2) In regulation 31 (date on which income is treated as paid)—

- (a) in paragraph (1) for “to (4) apply” substitute “applies”; and
- (b) omit paragraphs (3) and (4)(c).

(3) In regulation 32(1) (calculation of weekly amount of income) omit “and regulation 31(3) (date on which income is treated as paid)(d)”.

(4) In regulation 40(1) (calculation of income other than earnings) omit “and regulation 31(3) and (4) (date on which income is treated as paid)(e)”.

(5) In Schedule 2 (applicable amounts)—

(a) in paragraph 13A(f) (enhanced disability premium), after sub-paragraph (1) insert—

“(1A) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 145A of the Contributions and Benefits Act(g) (entitlement after death of child or qualifying young person).”; and

(b) in paragraph 14(h) (disabled child premium)—

- (i) after sub-paragraph (1)(a) omit “or”,
- (ii) after sub-paragraph (1)(b) insert—

“; or

(c) a child or young person in respect of whom section 145A of the Contributions and Benefits Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant’s applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant’s applicable amount because of that child or young person’s death.”, and

(iii) in sub-paragraph (2), after “condition” insert “in sub-paragraph (1)(a) or (b)”.

(6) In Schedule 3 (housing costs)—

- (a) in paragraphs 4(4A)(b)(i), 14(4)(b) and 14(12)(c) after “income” insert “equal to or”;
- (b) in paragraph 14(1) omit “Subject to sub-paragraph (2),”; and
- (c) omit paragraph 14(2).

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(a) S.I. 1999/584. Regulation 11 was most recently amended by regulation 3 of S.I. 2010/1901.

(b) S.I. 1987/1967.

(c) Paragraph (3) was substituted by regulation 2(2) of S.I. 2003/1731 and paragraph (4) was added by regulation 2(4)(c) of S.I. 2008/2767.

(d) The same words were inserted in regulation 32(1) by regulation 2(5)(a) of S.I. 2008/2767.

(e) The same words were inserted in regulation 40(1) by regulation 2(8) of S.I. 2009/655.

(f) Paragraph 13A was inserted by regulation 2(c)(ii) of S.I. 2000/2629. Sub-paragraph (1)(b) was amended by paragraph 20(c)(i) of Schedule 1 to S.I. 2003/455.

(g) Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c. 21). It has been amended but not in a way material to these Regulations.

(h) Paragraph 14 remains in force by virtue of regulation 2 and paragraph 20 of Schedule 1 to S.I. 2003/455. It was substituted by regulation 2(7)(g) of S.I. 2007/719.

(i) Paragraph (4A) was inserted by regulation 2 of S.I. 1997/2863.

### **Amendments to the Social Security (Claims and Payments) Regulations 1987**

4.—(1) The Social Security (Claims and Payments) Regulations 1987(a) are amended as follows.

(2) In Schedule 9(b) (deductions from benefit and direct payment to third parties)—

- (a) in the definition of “specified benefit” in paragraph 1(1) omit “but does not include any sum payable by way of child maintenance bonus in accordance with section 10 of the Child Support Act 1995 and the Child Maintenance Bonus Regulations 1996;” and
- (b) in paragraph 5 (service charges for fuel, and rent not falling within paragraph 2(1)(a)), for sub-paragraph (2)(c) substitute—

“(2) For the purposes of sub-paragraph (1) arrears of rent do not include any amount which falls to be deducted under regulation 74 of the Housing Benefit Regulations(d) (non-dependant deductions) or, as the case may be, regulation 55 of the Housing Benefit (State Pension Credit) Regulations(e) (non-dependant deductions) when assessing a person’s housing benefit.”.

(3) In the definition of “relevant benefits” in paragraph 1 of Schedule 9A(f) (deductions of mortgage interest from benefit and payment to qualifying lenders), omit “but does not include any sum payable by way of child maintenance bonus in accordance with section 10 of the Child Support Act 1995 and the Child Maintenance Bonus Regulations 1996;”.

### **Amendments to the Social Security (Incapacity Benefit) Regulations 1994**

5. For regulation 8 of the Social Security (Incapacity Benefit) Regulations 1994(g) (limit of earnings from councillor’s allowance) substitute—

“8.—(1) For the purpose of section 30E(1) of the Contributions and Benefits Act (incapacity benefit: reduction for councillor’s allowance) the prescribed amount is 16 x National Minimum Wage, subject to paragraph (3).

(2) In this regulation “National Minimum Wage” means the rate of the national minimum wage specified in regulation 11 of the National Minimum Wage Regulations 1999 (rate of the national minimum wage).

(3) Where the amount determined by the calculation in paragraph (1) would, but for this paragraph, include an amount of—

- (a) less than 50p, that amount shall be rounded up to the nearest 50p; or
- (b) less than £1 but more than 50p, that amount shall be rounded up to the nearest £1.”

### **Amendments to the Social Security (Incapacity for Work) (General) Regulations 1995**

6.—(1) The Social Security (Incapacity for Work) (General) Regulations 1995(h) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “medical evidence”, after “medical evidence” insert “, except in regulation 16A.”.

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(a) S.I. 1987/1968.

(b) Schedule 9 has been amended but not in a way material to these Regulations.

(c) Sub-paragraph (2) was amended by paragraph 2 of Schedule 2 to S.I. 2006/217.

(d) S.I. 2006/213. Regulation 74 was substituted by regulation 14 of S.I. 2007/2868.

(e) S.I. 2006/214. Regulation 55 was substituted by regulation 14 of S.I. 2007/2869.

(f) Schedule 9A was inserted by regulation 6 of, and the Schedule to, S.I. 1992/1026. The definition was inserted by regulation 2(27)(c) of S.I. 1996/1460 and amended by regulation 6(2)(b) of S.I. 1996/3195, regulation 8(10) of S.I. 1997/454 and regulation 27(2) and (3) of S.I. 2008/1554.

(g) S.I. 1994/2946. Regulation 8 was most recently amended by regulation 3 of S.I. 2010/2126.

(h) S.I. 1995/311.

(3) In regulation 16A(a) (persons to be treated as capable of work at the end of the period covered by medical evidence)—

- (a) the existing provision becomes paragraph (1);
- (b) in paragraph (1)(a) omit “in accordance with regulation 28(2)(a)”; and
- (c) after paragraph (1) add—

“(2) In this regulation “medical evidence” means evidence provided under regulation 2 or 5 of the Social Security (Medical Evidence) Regulations 1976(b).”.

(4) In regulation 17(c) (exempt work)—

- (a) in paragraphs (3) and (4), for “£95.00” substitute “16 x National Minimum Wage, subject to paragraph (10).”;

- (b) in paragraph (8) after the definition of “less than 16 hours a week” insert—

““National Minimum Wage” means the rate of the national minimum wage specified in regulation 11 of the National Minimum Wage Regulations 1999 (rate of the national minimum wage);”; and

- (c) after paragraph (9)(d) add—

“(10) Where the amount determined by the calculation in paragraphs (3) and (4) would, but for this paragraph, include an amount of—

- (a) less than 50p, that amount shall be rounded up to the nearest 50p; or
- (b) less than £1 but more than 50p, that amount shall be rounded up to the nearest £1.”

### **Amendments to the Jobseeker’s Allowance Regulations 1996**

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

(2) In regulation 55(4)(f) (short periods of sickness) omit “12 weeks of an entitlement of his to employment and support allowance or”.

(3) In regulation 96 (date on which income is treated as paid)—

- (a) in paragraph (1) for “to (4) apply” substitute “applies”; and
- (b) omit paragraphs (3) and (4)(g).

(4) In regulation 97(1) (calculation of weekly amount of income) omit “and regulation 96(3) (date on which income is treated as paid)(h)”.

(5) In regulation 103(1) (calculation of income other than earnings) omit “and regulation 96(3) and (4) (date on which income is treated as paid)(i)”.

(6) In Schedule 1 (applicable amounts)—

- (a) in paragraph 15A(j) (enhanced disability premium), after sub-paragraph (1) insert—

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- (a) Regulation 16A was inserted by regulation 6(3) of S.I. 2010/840.
  - (b) S.I. 1976/615. Paragraphs (1) and (1A) were inserted into regulation 2 by regulation 2(2) of S.I. 2010/137. Regulation 2 has been amended by other instruments but not in a way material to these Regulations. Regulation 5 was inserted by regulation 2 of S.I. 1982/699 and has been amended but not in a way material to these Regulations.
  - (c) Regulation 17 was substituted by regulation 4 of S.I. 2006/757. It was last amended by regulation 4 of S.I. 2010/2126.
  - (d) Paragraph (9) was added by regulation 6(4)(c) of S.I. 2010/840.
  - (e) S.I. 1996/207.
  - (f) Regulation 55(4) was amended by paragraph 1A of Schedule 4 to S.I. 2010/1907, as inserted by regulation 19(2) of S.I. 2010/2430.
  - (g) Paragraph (3) was substituted by regulation 4 of S.I. 2003/1731 and paragraph (4) was added by regulation 4(4)(a) of S.I. 2008/2767.
  - (h) The same words were inserted in regulation 97(1) by regulation 4(5)(a) of S.I. 2008/2767.
  - (i) The same words were inserted in regulation 103(1) by regulation 4(7) of S.I. 2009/2655.
  - (j) Paragraph 15A was inserted by regulation 5(c)(ii) of S.I. 2000/2629. Sub-paragraph (1)(b) was amended by paragraph 20 (c)(i) of Schedule 2 to S.I. 2003/455.

“(1A) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 145A of the Benefits Act (entitlement after death of child or qualifying young person).”; and

- (b) in paragraph 16 (disabled child premium)—
  - (i) after sub-paragraph (1)(a) omit “or”,
  - (ii) after sub-paragraph (1)(b) insert—
    - “; or
    - (c) a child or young person in respect of whom section 145A of the Benefits Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant’s applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant’s applicable amount because of that child or young person’s death.”; and
  - (iii) in sub-paragraph (2), after “condition” insert “in sub-paragraph (1)(a) or (b)”.
- (7) In Schedule 2 (housing costs)—
  - (a) in paragraph 13(1)(a) for “sub-paragraphs (2) and (2A)” substitute “sub-paragraph (2A)”;
  - (b) omit paragraph 13(2); and
  - (c) in paragraph 13(5)(b) after “income” insert “equal to or”.

## **Amendments to the Social Security and Child Support (Decisions and Appeals) Regulations 1999**

**8.** In Schedule 3B to the Social Security and Child Support (Decisions and Appeals) Regulations 1999(b) (date on which change of circumstances takes effect where claimant entitled to state pension credit)—

- (a) for paragraph 1(b) substitute—
  - “(b) except as provided in the following paragraphs—
    - (i) where state pension credit is paid in advance, from the day that change occurs or is expected to occur if either of those days is the first day of a benefit week but if it is not from the next following such day;
    - (ii) where state pension credit is paid in arrears, from the first day of the benefit week in which that change occurs or is expected to occur.”;
- (b) in paragraph 2, after “has changed” insert “or that the claimant becomes entitled to disability living allowance (middle or higher rate care component) or to attendance allowance”;
- (c) in paragraph 7(c), for “paragraphs 9 and 10” substitute “paragraph 8A”; and
- (d) for paragraphs 9 and 10 substitute—
  - “**8A.** Where the relevant change of circumstances is the death of the claimant, the superseding decision shall take effect on the first day of the benefit week next following the date of death.”.

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(a) Paragraph 13(1) was amended by regulation 13(3)(a) of S.I. 1997/2863 and by regulation 2(5) of, and paragraph 58(b) of Schedule 2 to, S.I. 2000/1978. It has also been amended by other instruments not material to these Regulations.

(b) S.I. 1999/991. Schedule 3B is inserted by S.I. 2002/3019. Paragraph 7 was amended and paragraphs 9 and 10 were inserted by S.I. 2010/510.

(c) Paragraph 7 was inserted by regulation 5(4) of S.I. 2006/832 and amended by regulation 4(4) of S.I. 2010/510.

## **Amendments to the Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000**

**9.**—(1) The Social Security (Work-focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000(a) are amended as follows.

(2) In regulation 2(b) (general requirement for lone parents claiming or entitled to income support to take part in an interview)—

(a) for paragraph (1), substitute—

“(1) Subject to this regulation and regulations 2ZA(c), 2A(d) and 4 to 6, a lone parent who falls within any of paragraphs (2) to (4) is required to take part in an interview.”; and

(b) for paragraph (8), substitute—

“(8) In this regulation, “relevant interview” means an interview under these Regulations in relation to the lone parent’s current award of income support.”.

(3) In regulation 2A(3), omit “or 2B”.

(4) Omit—

(a) regulation 2B(e) (requirement for certain lone parents in certain areas to take part in an interview);

(b) regulation 4(4) (circumstances where requirement to take part in an interview does not apply); and

(c) Schedule 3 (areas for the purposes of regulation 2B).

(5) In regulation 4(3) (circumstances where requirement to take part in an interview does not apply), for “2ZA, 2A and 2B” substitute “2ZA and 2A”.

(6) In regulation 5(2) (deferment of requirement to take part in an interview), for “2, 2ZA, 2A and 2B” substitute “2, 2ZA and 2A”.

(7) In regulation 6(2)(a) (waiver), for “2, 2ZA, 2A and 2B” substitute “2, 2ZA and 2A”.

(8) In regulation 7(3)(b) (consequences of a failure to take part in an interview), for “2(3) or (4), 2ZA, 2A or 2B” substitute “2(3) or (4), 2ZA or 2A”.

## **Amendments to the Social Security (Jobcentre Plus Interviews) Regulations 2002**

**10.** Regulation 4 of the Social Security (Jobcentre Plus Interviews) Regulations 2002(f) (continuing entitlement to specified benefit dependent on an interview) is amended as follows—

(a) at the end of paragraph (2)(i) insert “or”;

(b) omit paragraph (2)(iii) and (iv); and

(c) for paragraph (5A)(g) substitute—

“(5A) In this regulation, “relevant interview” means an interview under these Regulations in relation to the lone parent’s current award of the specified benefit.”.

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(a) S.I. 2000/1926.

(b) Regulation 2 was amended by regulations 2(1) and (2) of S.I. 2007/1034 and regulation 2(1) was amended by regulation 5(1) and (2) of S.I. 2008/3051.

(c) Regulation 2ZA was inserted by regulation 5(3) of S.I. 2008/3051.

(d) Regulation 2A was inserted by regulation 4(3) of S.I. 2005/2727.

(e) Regulation 2B was inserted by regulation 2(4) of S.I. 2007/1034.

(f) S.I. 2002/1703.

(g) Paragraph (5A) was inserted, along with paragraph (5B) by regulation 4(2)(d) of S.I. 2007/1034.

## **Amendments to the Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003**

**11.** The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003(a) are amended as follows—

- (a) in regulation 7 (income support - transitional arrangements)(b) omit paragraphs (6) and (7); and
- (b) in regulation 8 (jobseeker's allowance - transitional arrangements)(c) omit paragraphs (5) and (6).

## **Amendments to the Housing Benefit Regulations 2006**

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

(2) In paragraph 15 of Schedule 3(e) (enhanced disability premium)—

(a) after sub-paragraph (1) insert—

“(1A) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 145A of the Act(f) (entitlement to child benefit after death of child or qualifying young person).”; and

(b) in sub-paragraph (2), for “An enhanced disability premium shall not be applicable in respect of” substitute “The condition is not satisfied if the person to whom sub-paragraph (1) refers is”.

(3) In paragraph 16 of Schedule 3 (disabled child premium) for sub-paragraph (c) substitute—

“(c) is a child or young person in respect of whom section 145A of the Act (entitlement to child benefit after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant's applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant's applicable amount because of that child or young person's death.”.

(4) Omit paragraph 48 of Schedule 6 (capital to be disregarded: child maintenance bonus).

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

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

(2) In paragraph 7 of Schedule 3 (enhanced disability premium)—

(a) the existing provision becomes sub-paragraph (1);

(b) for “The condition” substitute “Subject to sub-paragraph (2), the condition”; and

(c) after sub-paragraph (1) add—

“(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in

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(a) S.I. 2003/455.

(b) Regulation 7 has been amended but not in a way material to these Regulations.

(c) Regulation 8 has been amended but not in a way material to these Regulations.

(d) S.I. 2006/213.

(e) Paragraph 15 was amended by regulation 2(15)(c) of S.I. 2005/2502 (as amended by paragraph 27 of Schedule 2 to S.I. 2006/217). Sub-paragraph (1) was substituted by regulation 23(c) of S.I. 2008/1082 (as amended by regulation 31(b) of S.I. 2008/2428). Paragraph 15 was also amended by regulation 6(8) of S.I. 2008/2767 and regulation 26(3) of S.I. 2009/1488.

(f) Section 145A was inserted by section 55 of the Tax Credits Act 2002 (c. 21). It has been amended but not in a way material to these Regulations.

(g) S.I. 2006/214.



respect of that person under section 145A of the Act (entitlement after death of child or qualifying young person).”.

(3) In paragraph 8 of Schedule 3 (disabled child premium) for sub-paragraph (c) substitute—

“(c) is a child or young person in respect of whom section 145A of the Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant’s applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant’s applicable amount because of that child or young person’s death.”.

#### **Amendments to the Council Tax Benefit Regulations 2006**

**14.**—(1) The Council Tax Benefit Regulations 2006(a) are amended as follows.

(2) In paragraph 15 of Schedule 1(b) (enhanced disability premium)—

(a) after sub-paragraph (1) insert—

“(1A) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 145A of the Act (entitlement after death of child or qualifying young person).”; and

(b) in sub-paragraph (2), for “An enhanced disability premium shall not be applicable in respect of” substitute “The condition is not satisfied if the person to whom sub-paragraph (1) refers is”.

(3) In paragraph 16 of Schedule 1 (disabled child premium) for sub-paragraph (c) substitute—

“(c) is a child or young person in respect of whom section 145A of the Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant’s applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant’s applicable amount because of that child or young person’s death.”.

(4) Omit paragraph 50 of Schedule 5 (capital to be disregarded: child maintenance bonus).

#### **Amendments to the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006**

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

(2) In paragraph 7 of Schedule 1 (enhanced disability premium)—

(a) the existing provision becomes sub-paragraph (1);

(b) for “The condition” substitute “Subject to sub-paragraph (2), the condition”; and

(c) after sub-paragraph (1) add—

“(2) Where the condition in sub-paragraph (1) ceases to be satisfied because of the death of a child or young person, the condition is that the claimant is entitled to child benefit in respect of that person under section 145A of the Act (entitlement after death of child or qualifying young person).”.

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(a) S.I. 2006/215.

(b) Paragraph 15(1) was substituted by regulation 59(c) of S.I. 2008/1082, as amended by regulation 39(b) of S.I. 2008/2428. Paragraph 15 was also amended by regulation 34(3) of S.I. 2009/1488. Paragraph 15 has been amended by other instruments but not in a way material to these Regulations.

(c) S.I. 2006/216.

(3) In paragraph 8 of Schedule 1 (disabled child premium) for sub-paragraph (c) substitute—

“(c) is a child or young person in respect of whom section 145A of the Act (entitlement after death of child or qualifying young person) applies for the purposes of entitlement to child benefit but only for the period prescribed under that section, and in respect of whom a disabled child premium was included in the claimant’s applicable amount immediately before the death of that child or young person, or ceased to be included in the claimant’s applicable amount because of that child or young person’s death.”.

### **Amendments to the Employment and Support Allowance Regulations 2008**

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

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “first contribution condition” insert—

““First-tier Tribunal” has the meaning given by section 3(1) of the Tribunals, Courts and Enforcement Act 2007(b);”;

(b) in the definition of “medical evidence”, after “medical evidence” insert “, except in regulation 32A,”; and

(c) after the definition of “mobility supplement” insert—

““National Minimum Wage” means the rate of the national minimum wage specified in regulation 11 of the National Minimum Wage Regulations 1999 (rate of the national minimum wage);”.

(3) In regulation 30(3) (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made), for “an appeal tribunal constituted under Chapter 1 of Part 1 of the Social Security Act 1998” substitute “the First-tier Tribunal”.

(4) In regulation 32A(c) (claimants to be treated as not having limited capability for work at the end of the period covered by medical evidence)—

(a) the existing provision becomes paragraph (1);

(b) in paragraph (1)(a) omit “in accordance with regulation 30(2)(a)”;

(c) after paragraph (1) add—

“(2) In this regulation “medical evidence” means evidence provided under regulation 2 or 5 of the Medical Evidence Regulations.”.

(5) In regulation 45 (exempt work)—

(a) in paragraphs (3) and (4)(d) for “£95.00” substitute “16 x National Minimum Wage, subject to paragraph (9A),”; and

(b) after paragraph (9) insert—

“(9A) Where the amount determined by the calculation in paragraphs (3) and (4) would, but for this paragraph, include an amount of—

(a) less than 50p, that amount shall be rounded up to the nearest 50p; or

(b) less than £1 but more than 50p, that amount shall be rounded up to the nearest £1.”

(6) In regulation 76 (deductions for councillor’s allowance)—

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(a) S.I. 2008/794.

(b) 2007 c. 15.

(c) Regulation 32A was inserted by regulation 9(9) of S.I. 2010/840.

(d) Paragraphs (3) and (4) were amended by regulation 5(2) of S.I. 2010/2126.

- (a) in paragraph (1)(a) for “£95.00” substitute “16 x National Minimum Wage, subject to paragraph (3)”; and
- (b) after paragraph (2) add—
- “(3) Where the amount determined by the calculation in paragraph (1) would, but for this paragraph, include an amount of—
- (i) less than 50p, that amount shall be rounded up to the nearest 50p; or
- (ii) less than £1 but more than 50p, that amount shall be rounded up to the nearest £1.”.
- (7) In regulation 93 (date on which income is treated as paid)—
- (a) in paragraph (1) omit “or (3)”; and
- (b) omit paragraphs (3) and (4).
- (8) In regulation 104(1) (calculation of income other than earnings) omit “and regulation 93(3) and (4) (date on which income is treated as paid)(b)”.
- (9) In regulation 149(1)(c) (linking rules-limited capability for work), after “employment and support allowance” add “until it is determined whether that beneficiary has, or is treated as having, limited capability for work following a limited capability for work assessment”.
- (10) In regulation 150(d) (linking rules-limited capability for work-related activity) after “employment and support allowance” add “until it is determined whether that beneficiary has, or is treated as having, limited capability for work-related activity in accordance with regulation 34 or 35”.
- (11) In Schedule 6 (housing costs)—
- (a) in paragraph 6(5)(b) after “income” insert “equal to or”;
- (b) in paragraph 15(1) omit “Subject to sub-paragraph (2),”;
- (c) omit paragraph 15(2); and
- (d) in paragraph 15(8)—
- (i) in paragraph (b) after “income” insert “equal to or”, and
- (ii) after paragraph (b) insert—
- “(bb) an amount of contributory allowance payable in respect of a claimant under section 2 that is equal to, or exceeds, the applicable amount in the claimant’s case; or”.
- (12) In paragraphs 5, 6 and 7 of Schedule 7(e) (sums to be disregarded in the calculation of earnings), for “£95.00”, wherever it appears, substitute “16 x National Minimum Wage”.
- (13) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings) in paragraph 7, for sub-paragraph (3)(f) substitute—
- “(3) Any increase in respect of a dependent child or dependent young person under section 80 or 90 of the Contributions and Benefits Act.”.

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

*Freud*  
Parliamentary Under Secretary of State,  
Department for Work and Pensions

5th March 2011

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(a) Paragraph (1) was amended by regulation 5(3) of S.I. 2010/2126.  
(b) The same words were inserted in regulation 104(1) by regulation 11(7) of S.I. 2009/2655.  
(c) Regulation 149(1) was substituted by regulation 22(2) of S.I. 2010/2430.  
(d) Regulation 150 was substituted by regulation 23(2) of S.I. 2010/2430.  
(e) Paragraphs 5, 6 and 7 of Schedule 7 were last amended by regulation 5(4) of S.I. 2010/2126.  
(f) Sub-paragraph (3) was inserted by regulation 9(20)(a) of S.I. 2010/840.

## EXPLANATORY NOTE

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

These Regulations amend a number of different regulations relating to social security.

Regulations 3(2) to (4), 7(3) to (5) and 16(7) to (8) amend the Income Support (General) Regulations 1987 (“the Income Support Regulations”), the Jobseeker’s Allowance Regulations 1996 (“the Jobseeker’s Allowance Regulations”) and the Employment and Support Allowance Regulations 2008 (“the Employment and Support Allowance Regulations”) respectively, by simplifying the rules where income received from Working Tax Credit is treated as paid.

Regulations 3(5), 7(6), 12(2) to (3), 13, 14(2) to (3) and 15 amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, the Housing Benefit Regulations 2006 (“the Housing Benefit Regulations”), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006, the Council Tax Benefit Regulations 2006 (“the Council Tax Benefit Regulations”) and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 respectively, to make it clear that disabled child premiums and enhanced disability premiums continue in payment for a period of 8 weeks following the death of a child for whom child benefit was being paid.

Regulations 3(6), 7(7) and 16(11) amend the Income Support Regulations, the Jobseeker’s Allowance Regulations and the Employment and Support Allowance Regulations respectively, by removing linking rules which had become obsolete, and amending other linking rules to make it clear that they apply where a person’s income is equal to (as well as more than) the amount of benefit payable.

Regulation 4 amends the Social Security (Claims and Payments) Regulations 1987 by removing out of date references (including to sums payable by way of child maintenance bonus) and updating others.

Regulation 6(2) and (3) amend the Social Security (Incapacity for Work) (General) Regulations 1995 to provide a separate definition of medical evidence where a claimant is treated as being capable of work at the end of a period covered by medical evidence. By expressly cross-referring to the Social Security (Medical Evidence) Regulations 1976, it is made clearer that evidence for the purposes of establishing incapacity for work may include the provision of a self certificate for the first 7 days of a spell of incapacity. Similar amendments are made to the Employment and Support Allowance Regulations in respect of establishing limited capability for work (regulation 16(2)(b) and (4)).

Regulation 7(2) amends the Jobseeker’s Allowance Regulations by removing a provision by which benefit is disallowed if a period of sickness occurs within 12 weeks after a previous claim for employment and support allowance has ended.

Regulation 8 amends Schedule 3B to the Social Security and Child Support (Decisions and Appeals) Regulations 1999 in relation to dates when changes of circumstances take effect for awards of state pension credit. Dates when those changes of circumstances take effect will now depend on whether the claimant is paid in advance or arrears (paragraph (a)). Where the claimant begins receiving disability living allowance (middle or higher rate care component) or attendance allowance, specific provision is also made as to the day when the change takes effect (paragraph (b)). There is also a change to provide that where a claimant for state pension credit dies, the decision superseding the state pension credit award takes effect from the beginning of the following benefit week (paragraphs (c) and (d)).

Regulation 9 amends the Social Security (Work-Focused Interviews for Lone Parents) and Miscellaneous Amendments Regulations 2000 (“the Lone Parent WFI Regulations”).

Regulation 9(2)(a) substitutes a new paragraph (1) for paragraph (1) of regulation 2 of the Lone Parent WFI Regulations. This makes clear that regulation 2(1) will apply to a lone parent where they fall within any of paragraphs (2) to (4) of regulation 2 of the Lone Parent WFI Regulations, and removes the reference to regulation 2B.

Regulations 9(2)(b) and 10(c) remove references to regulations that have been revoked.

Regulation 9(4) revokes regulations 2B and 4(4) of, and Schedule 3 to, the Lone Parent WFI Regulations to remove the requirement on certain lone parents in specified areas to take part in a work-focused interview every 13 weeks.

Regulation 10 amends the Social Security (Jobcentre Plus Interviews) Regulations 2002 (“the JCP Interviews Regulations”). It amends regulation 4 of the JCP Interviews Regulations, which imposes requirements on certain people who are entitled to income support, incapacity benefit, and severe disablement allowance to take part in work-focused interviews by removing references to regulations that have been revoked.

Regulation 11 amends the Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) Regulations 2003 by removing the £10.50 income disregard for income support and jobseeker’s allowance currently applied to those who have been in continuous receipt of those benefits since August 2005 and who have not claimed Child Tax Credit.

Regulations 12(4) and 14(4) remove references to the child maintenance bonus from the lists of capital to be disregarded for the purposes of the Housing Benefit Regulations and Council Tax Benefit Regulations respectively.

Regulation 16(2)(c), (5), (6) and (12) amend the Employment and Support Allowance Regulations to link the amounts to be disregarded from various sources of income with the current rate of the national minimum wage. Similar amendments are made to other legislation in respect of the unemployability supplement to Industrial Injuries Disablement Benefit (regulation 2) and to the limit of earnings from councillor’s allowance and exempt work in the context of incapacity benefit (regulations 5 and 6).

Regulation 16(3) changes an out of date reference in the Employment and Support Allowance Regulations to an appeal tribunal, to refer to the First-tier Tribunal. Regulation 16(2)(a) complements that change by inserting a definition of First-tier Tribunal into those Regulations.

Regulation 16(9) and (10) amend regulations 149(1) and 150 of the Employment and Support Allowance Regulations respectively, to make clear that a work or training beneficiary is treated as having limited capability for work or limited capability for work-related activity from the first day within a linking term (i.e. a period of 104 weeks from the first day immediately following the last day in a period of limited capability for work), only until it is determined whether or not that beneficiary has, or is treated as having (i) limited capability for work or (ii) limited capability for work-related activity.

Regulation 16(13) amends the Employment and Support Allowance Regulations to make it clear that income received from a Child Dependency Increase is to be disregarded when calculating income.

A full impact assessment has not been published for this instrument as it has no impact on the private sector or civil society organisations.

**2011 No. 674**

**SOCIAL SECURITY**

The Social Security (Miscellaneous Amendments) Regulations  
2011

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