STATUTORY INSTRUMENTS

2009 No. 212

LEGAL SERVICES COMMISSION, ENGLAND AND WALES

The Criminal Defence Service (Information Requests) (Prescribed Benefits) Regulations 2009

Made - - - -	*8th February 2009*
Laid before Parliament	*9th February 2009*
Coming into force - -	*2nd March 2009*

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by section 26 of and paragraph 8(2) of Schedule 3 to the Access to Justice Act 1999(**a**).

Citation, commencement, interpretation and relevant authority

1.—(1) These Regulations may be cited as the Criminal Defence Service (Information Requests) (Prescribed Benefits) Regulations 2009 and come into force on 2nd March 2009.

(2) In these Regulations—

(a) "the 1992 Act" means the Social Security Contributions and Benefits Act 1992(**b**);

(b) "the 1999 Act" means the Access to Justice Act 1999;

(c) "the 2006 Regulations" means the Criminal Defence Service (Financial Eligibility) Regulations 2006(**c**);

(d) "disregarded benefit" means a benefit excluded from the calculation of gross annual income as defined in regulation 2 of the 2006 Regulations;

(e) "Independent Living Funds" has the same meaning as in the 2006 Regulations;

(f) "qualifying benefit" means a benefit for the purposes of regulation 5(3) of the 2006 Regulations.

(3) The Legal Services Commission or a court officer or other person to whom the Commission, in accordance with section 3(4) of the 1999 Act, has delegated its functions under paragraph 2A of Schedule 3 to the 1999 Act is the relevant authority for the purposes of paragraph 6 of Schedule 3 to the 1999 Act and is referred to in these Regulations as "the relevant authority".

(**a**) 1999 c. 22. Section 26 includes definitions of "prescribed" and "regulations". The reference in that section to the Lord Chancellor was changed to the Secretary of State by S.I. 2003/1887 and was changed back to the Lord Chancellor by S.I. 2005/3429. Paragraph 8 of Schedule 3 was inserted by section 57 of the Criminal Justice and Immigration Act 2008 (c. 4).

(**b**) 1992 c. 4. Section 30A was inserted by section 1 of the Social Security (Incapacity for Work) Act 1994 (c. 18), and is prospectively repealed by section 67 of, paragraph 9(1) and (5) of Schedule 3 to, and Schedule 8 to, the Welfare Reform Act 2007 (c. 5). Sections 39A and 39 B were inserted by section 55(2) of the Welfare Reform and Pensions Act 1999 (c. 30). Sections 48A and 48B were inserted by section 126 of, and paragraph 3(1) of Schedule 4 to, the Pensions Act 1995 (c. 26). Section 48BB was inserted by section 56 of the Welfare Reform and Pensions Act 1999. Section 55A was inserted by section 50(1) of, and paragraphs 1 and 3 of Schedule 6 to, the Welfare Reform and Pensions Act 1999. Parts 12ZA and 12ZB were inserted by sections 2 and 4 respectively of the Employment Act 2002 (c. 22).

(**c**) S.I. 2006/2492, amended by S.I. 2007/777, 2007/2937 and 2008/723.

Prescribed benefits

2. The benefits prescribed for the purposes of paragraph 6(2)(e) of Schedule 3 to the 1999 Act are those listed in the Table in this regulation.

Prescribed benefits

Qualifying benefit	*Payable under*	*Provision*
Income support	The 1992 Act	Section 124
Income-based jobseeker's allowance	Jobseekers Act 1995(**a**)	Part I
Guarantee credit	State Pension Credit Act 2002(**b**)	Section 1(3)(a)
Income-related employment and support allowance	Welfare Reform Act 2007(**c**)	Section 1(2)(b)
Disregarded benefit	*Payable under*	*Provision*
Attendance allowance	The 1992 Act	Section 64
Severe disablement allowance	The 1992 Act	Section 68
Carer's allowance	The 1992 Act	Section 70
Disability living allowance	The 1992 Act	Section 71
Constant attendance allowance	The 1992 Act	Section 104 and paragraphs 4 and 7(2) of Schedule 8
Council tax benefit	The 1992 Act	Section 131
Any direct payment	Regulations under the Health and Social Care Act 2001(**d**)	Section 57(1)
Any direct payment	The Community Care, Services for Carers and Children's Services (Direct Payments) (Wales) Regulations 2004(**e**)	
Any exceptionally severe disablement allowance	The Personal Injuries (Civilians) Scheme 1983(**f**)	
Any pension	The Naval, Military and Air Forces etc (Disablement and Death) Service Pensions Order 2006(**g**)	
Any payments out of the Independent Living Funds		
Other benefits	*Payable under*	*Provision*
Bereavement benefits	The 1992 Act	Sections 36, 39A and 39B
Incapacity benefit	The 1992 Act	Section 30A
Long-term incapacity benefit for widows and widowers	The 1992 Act	Sections 40 and 41
Industrial injuries benefit	The 1992 Act	Section 94
Contribution-based jobseeker's allowance	Jobseekers Act 1995	Part I

(**a**) 1995 c.18.
(**b**) 2002 c. 16.
(**c**) 2007 c. 5.
(**d**) 2001 c.15.
(**e**) S.I. 2004/1748.
(**f**) S.I. 1983/686.
(**g**) S.I. 2006/606.

Contribution-based employment and support allowance	Welfare Reform Act 2007(**a**)	Section 1(2)(a)
Maternity allowance	The 1992 Act	Section 35
Statutory maternity pay	The 1992 Act	Part XII
Statutory paternity pay	The 1992 Act	Part 12ZA
Statutory adoption pay	The 1992 Act	Part 12ZB
Category A and Category B retirement pension	The 1992 Act	Sections 44, 48A, 48B, 48BB and 51
Shared additional pension	The 1992 Act	Section 55A
Widow's benefit	The 1992 Act	Sections 37 and 38
Housing benefit	The 1992 Act	Section 130
Job grant, return to work credit or in-work credit	Employment and Training Act 1973(**b**)	Section 2

3. An information request made under paragraph 6 of Schedule 3 to the 1999 Act by the relevant authority may include a request for the disclosure of the amount the individual is receiving by way of any prescribed benefit.

Signed by authority of the Lord Chancellor

Bach
Parliamentary Under Secretary of State
Ministry of Justice

8th February 2009

(**a**) 2007 c. 5.
(**b**) 1973 c. 50.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Under Schedule 3 to the Access to Justice Act 1999 the authority responsible for granting rights to publicly funded representation for criminal cases may make an information request to the Secretary of State for information about an individual who has applied for representation, to facilitate the making of decisions about financial eligibility. The information may include information about the individual's benefit status. These Regulations prescribe the relevant benefits and permit the authority to seek information about the amount of any prescribed benefits being received.

The impact assessment which was prepared for section 57 of the Criminal Justice and Immigration Act 2008 is applicable to this instrument. It is available at www.justice.gov.uk/publications/criminal-justice-bill.htm and from Criminal Legal Aid Strategy Division, Ministry of Justice, 102 Petty France, London SW1H 9AJ.

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£4.00

E3699 2/2009 193699T 19585