STATUTORY INSTRUMENTS

2009 No. 1676

SOCIAL SECURITY

The Social Security (Deemed Income from Capital) Regulations 2009

Made - - - -	*1st July 2009*
Laid before Parliament	*8th July 2009*
Coming into force - -	*2nd November 2009*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 136(2) and (5), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(**a**) and sections 15(2) and 17(1) of the State Pension Credit Act 2002(**b**).

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it(**c**).

Citation and commencement

1. These Regulations may be cited as the Social Security (Deemed Income from Capital) Regulations 2009 and shall come into force on 2nd November 2009.

Amendment of the State Pension Credit Regulations 2002

2. The State Pension Credit Regulations 2002(**d**) are amended as follows.

3.—(1) Regulation 15 (income for the purposes of the Act) is amended in accordance with this regulation.

(2) For paragraph (6) substitute—

"(6) For the purposes of section 15(2) (deemed income from capital) and subject to regulation 17(8) (capital to be disregarded), a claimant's capital shall be deemed to yield a weekly income of—

(a) £1 for each £500 in excess of £10,000; and

(b) £1 for any excess which is not a complete £500.".

(3) Omit paragraphs (7) and (8).

(**a**) 1992 c. 4. Section 137(1) is cited for the meaning of "prescribed". Section 175(1) was amended by paragraph 29(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 175(1) and (3) is applied to the State Pension Credit Act 2002 (c. 16) by section 19(1) of that Act.

(**b**) 2002 c. 16. Section 17(1) is cited for the meaning of "prescribed" and "regulations".

(**c**) Section 173(1)(b) of the Social Security Administration Act 1992 (c. 5) provides that proposals in respect of regulations which would otherwise be referable to the Social Security Advisory Committee may not be so referred with the agreement of that Committee. These Regulations would otherwise be referable to the Committee by virtue of section 172 of that Act.

(**d**) S.I. 2002/1792. Regulation 15(7) was amended by S.I. 2005/2687.

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

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

5.—(1) Regulation 29 (meaning of "income") is amended in accordance with this regulation.

(2) For paragraph (2) substitute—

"(2) For the purposes of these Regulations and subject to regulation 44(2) (capital to be disregarded), a claimant's capital shall be treated as if it were a weekly income of—

(a) £1 for each £500 in excess of £10,000; and

(b) £1 for any excess which is not a complete £500.".

(3) Omit paragraphs (6) and (7).

6.—(1) Schedule 5 (amounts to be disregarded in the calculation of income other than earnings) is amended in accordance with this regulation.

(2) For paragraph 24 substitute—

"**24.** Where the total value of any capital specified in Part 2 (capital disregarded only for the purposes of determining deemed income) of Schedule 6 does not exceed £10,000, any income actually derived from such capital.".

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

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

8.—(1) Regulation 19 (meaning of "income") is amended in accordance with this regulation.

(2) For paragraph (2) substitute—

"(2) For the purposes of these Regulations and subject to regulation 34(2) (capital to be disregarded), a claimant's capital shall be treated as if it were a weekly income of—

(a) £1 for each £500 in excess of £10,000; and

(b) £1 for any excess which is not a complete £500.".

(3) Omit paragraphs (6) and (7).

9.—(1) Schedule 3 (amounts to be disregarded in the calculation of income other than earnings) is amended in accordance with this regulation.

(2) For paragraph 23 substitute—

"**23.** Where the total value of any capital specified in Part 2 (capital disregarded only for the purposes of determining deemed income) of Schedule 4 does not exceed £10,000, any income actually derived from such capital.".

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

Angela Eagle
Minister of State
Department for Work and Pensions

1st July 2009

(**a**) S.I. 2006/214. There are no relevant amendments.
(**b**) S.I. 2006/216. There are no relevant amendments.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to:

— the State Pension Credit Regulations 2002 (S.I. 2002/1792);

— the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214);

— the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/216).

The amendments provide for an increase in the limits beneath which capital is not taken to generate income for the purposes of calculating benefit. The limits of £10,000 for claimants residing permanently in specified accommodation which provides care for the claimant and £6,000 for all other claimants are amended so that a limit of £10,000 applies to all claimants.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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