STATUTORY INSTRUMENTS

2008 No. 2767

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008

Made - - - -	*17th October 2008*
Laid before Parliament	*24th October 2008*
Coming into force in accordance with regulation 1	

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

– sections 123(1)(a), (d) and (e), 124(1)(e), 130(4), 130A(2), 131(3)(b), (7)(b) and (10), 135(1), 136(3), (4) and (5)(a) to (c), 136A(3), 137(1), (2)(b) and (h) and 175(1) to (4) of the Social Security Contributions and Benefits Act 1992(**a**),

– sections 5(1)(h) and (p), 6(1)(h) and (k), 189(1) and (3) to (5) of the Social Security Administration Act 1992(**b**),

– sections 4(5), 12(1) to (3) and (4)(a) to (c), 35(1) and 36(1), (2) and (4) and paragraphs 1(2)(a), 3(b) and 11(2) of Schedule 1 to the Jobseekers Act 1995(**c**),

– sections 1(5)(a), 2(3)(b) and (6), 15(3) and (6)(b), 17(1) and 19(1) of the State Pension Credit Act 2002(**d**).

(**a**) 1992 c.4. Section 123(1)(e) was substituted by paragraph 1(1) of Schedule 9 to the Local Government Finance Act 1992 (c.14). Section 124(1)(e) was inserted by paragraph 30(5) of Schedule 2 to the Jobseeker's Act 1995 (c.18) and amended by section 21 and Schedule 3 of the State Pension Credit Act 2002 (c.16). Section 130(4) was repealed by section 30(1) of the Welfare Reform Act 2007 (c.5) but saved for the purposes of amending regulations made under it by article 3(1)(a) of the Welfare Reform Act 2007 (Commencement No. 4, and Savings and Transitional Provisions) Order 2007 (S.I. 2007/2872). Section 130A was inserted by section 30(2) of the Welfare Reform Act 2007. Section 136A was inserted by section 14 and paragraphs 1 and 3 of Part 1 of Schedule 2 to the State Pension Credit Act 2002. Section 137(1) is an interpretation provision and is cited because of the meaning there given to the word "prescribed". Section 175(1) and (4) was amended by section 2 of, and paragraph 29(1) and (2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

(**b**) 1992 c.5. Section 189(1), (4) and (5) was amended by paragraph 109(a) of Schedule 7 and Schedule 8 to the Social Security Act 1998 (c.14). Section 189(1) was also amended by paragraph 57 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and Schedule 6 to the Tax Credits Act 2002 (c.21).

(**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". Sections 35(1) and 36(4) were amended by section 2 of and paragraphs 62 and 63 respectively of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc) Act 1999. Section 36(1) was amended by section 70 of and paragraph 29(1) and (6) of Schedule 8 to the Welfare Reform and Pensions Act 1999 (c.30) and section 86(1) of and paragraph 145 of Schedule 7 to the Social Security Act 1998 (c.14).

(**d**) 2002 c.16. Section 17(1) is an interpretation provision and is cited because of the meaning given to the words "prescribed" and "regulations".

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

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No.6) Regulations 2008.

(2) Subject to paragraph (3), these Regulations shall come into force on 17th November 2008.

(3) Regulations 7(7) and 8(7) shall come into force on 6th April 2009.

Amendment of the Income Support (General) Regulations 1987

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

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

(a) omit the following definitions—

(i) "community charge benefit"(**d**);

(ii) "the Independent Living (Extension) Fund"(**e**);

(iii) "the Independent Living Fund"(**f**);

(iv) "the Independent Living (1993) Fund"(**g**);

(v) "the Independent Living Funds"(**h**);

(b) at the appropriate places insert the following definitions—

""Health Service Act" means the National Health Service Act 2006(**i**);

"Health Service (Wales) Act" means the National Health Service (Wales) Act 2006(**j**);" ;

(c) in the definition of "non-dependant deduction" for "11" substitute "18";

(d) in the definition of "youth training scheme or youth training"(**k**) omit "youth training scheme or".

(3) In regulation 4 (temporary absence from Great Britain), for sub-paragraph (3A)(b)(**l**) substitute—

"(b) that period of temporary absence is for the purpose of the claimant receiving treatment at a hospital or other institution outside Great Britain where the treatment is being provided—

(i) under section 6(2) of the Health Service Act (performance of functions outside England) or section 6(2) of the Health Service (Wales) Act (performance of functions outside Wales);

(**a**) *See* sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992.
(**b**) *See* section 176(1) of the Social Security Administration Act 1992 as amended by section 103 of and paragraph 23 of Schedule 9 to the Local Government Finance Act 1992.
(**c**) S.I. 1987/1967.
(**d**) Inserted by S.I. 1993/315.
(**e**) Inserted by S.I. 1993/963.
(**f**) Inserted by S.I. 1988/999.
(**g**) Inserted by S.I. 1993/963.
(**h**) Inserted by S.I. 1993/963 and amended by S.I. 2007/2538.
(**i**) 2006 c.41.
(**j**) 2006 c.42.
(**k**) Inserted by S.I. 1988/1228 and amended by S.I. 1991/236.
(**l**) Paragraph (3A) was inserted by S.I. 2004/1869.

(ii) pursuant to arrangements made under section 12(1) of the Health Service Act (Secretary of State's arrangements with other bodies), section 10(1) of the Health Service (Wales) Act (Welsh Minister's arrangements with other bodies), paragraph 18 of Schedule 4 to the Health Service Act (joint exercise of functions) or paragraph 18 of Schedule 3 to the Health Service (Wales) Act (joint exercise of functions); or

(iii) under any equivalent provision in Scotland or pursuant to arrangements made under such provision.".

(4) In regulation 31(**a**) (date on which income is treated as paid)—

(a) in paragraph (1) for "(2) or (3) applies" substitute "(2) to (4) apply";

(b) in paragraph (3)—

(i) for "Working tax credit or child tax credit" substitute "Subject to paragraph (4), working tax credit";

(ii) omit sub-paragraph (c) and the preceding "or";

(c) after paragraph (3) add—

"(4) Where working tax credit is paid by virtue of regulation 7D (ceasing to undertake work or working less than 16 hours a week) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(**b**), it shall be treated as paid on the first day of the benefit week in which that award of tax credit begins; but this paragraph shall only apply until the last day of the last benefit week that coincides with or precedes the last day for which tax credit is awarded under that regulation.".

(5) In regulation 32(1)(**c**) (calculation of weekly amount of income)—

(a) after "other than earnings)" insert " and regulation 31(3) (date on which income is treated as paid)" and after "a payment" insert "of income or tax credit";

(b) for sub-paragraph (b)(iii) substitute—

"(iii) in a case where that period is a year and the payment is an award of working tax credit, by dividing the payment by the number of days in the year and multiplying the result by 7;

(iiia) in a case where that period is a year and the payment is income other than an award of working tax credit, by dividing the amount of the payment by 52;".

(6) In—

(a) regulation 42(4ZA)(a)(**d**) (notional income),

(b) regulation 48(10)(c) (**e**) (income treated as capital),

(c) regulation 51(3A)(a)(**f**) (notional capital),

(d) regulation 72(1)(a)(i)(**g**) (assessment of income and capital in urgent cases),

(e) paragraph 18(8)(b) of Schedule 3(**h**) (housing costs),

(f) paragraphs 21(2)(**i**) and 39(1)(**j**) of Schedule 9 (sums to be disregarded in the calculation of income other than earnings),

---

(**a**) Paragraph (1) was amended by S.I. 2000/681. Paragraph (3) was inserted by S.I. 2000/681 and amended by S.I. 2003/1731.
(**b**) S.I. 2002/2005. Regulation 7D was inserted by S.I. 2007/968.
(**c**) Relevant amending instruments are S.I. 1988/663 and 1989/1323.
(**d**) Regulation 42(4ZA) was inserted by S.I. 1998/2117. Relevant amending instruments are S.I. 1999/2640, 1999/3156, 2001/1029, 2003/455, 2006/588.
(**e**) Paragraph (10) was inserted by S.I. 1988/2022. Relevant amending instruments are S.I. 1990/127, 1991/1175, 1992/1101, 1993/963, 1993/1249.
(**f**) Paragraph (3A) was inserted by S.I. 1998/2117. Relevant amending instruments are S.I. 2004/2308, 2005/3391.
(**g**) Sub-paragraph (a) was substituted by S.I. 1998/563.
(**h**) Schedule 3 was substituted by S.I. 1995/1613.
(**i**) Paragraph 21(2) was substituted by S.I. 1988/663. Relevant amending instruments are: S.I. 1988/999, 1990/127, 1991/1175, 1992/1101, 1993/963, 1993/1249.
(**j**) Paragraph 39(1) was inserted by S.I. 1988/663 and substituted by S.I. 1991/1175. Relevant amending instruments are S.I. 1992/1101, 1993/963, 1993/1249.

(g) paragraph 22(1) of Schedule 10(**a**) (capital to be disregarded),

for "Funds" substitute "Fund (2006)".

(7) In regulation 42(4A)(**b**) (notional income) after "partner in that home" insert "or hospital".

(8) In regulation 51A(**c**) (diminishing notional capital rule) omit sub-paragraph (3)(c).

(9) In regulation 61(1) (interpretation)—

(a) in the definition of "contribution"(**d**) for "Further and Higher Education (Scotland) Act 1992"(**e**) substitute "Education (Scotland) Act 1980"(**f**);

(b) for the definition of "sandwich course"(**g**) substitute—

""sandwich course" has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008(**h**), regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007(**i**), regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007(**j**);";

(c) in paragraph (c) of the definition of "standard maintenance grant"(**k**) omit "and paid under the Further and Higher Education (Scotland) Act 1992".

(10) In regulation 66A(**l**) (treatment of student loans)—

(a) in paragraph (1) omit "unless it is a hardship loan in which case it shall be disregarded";

(b) omit paragraph (1A).

(11) In Schedule 3 (housing costs)—

(a) in paragraph 3(11)(c)(i)(bb)(**m**) (circumstances in which a person is to be treated as occupying a dwelling as his home) for "section 9 of Criminal Justice and Court Services Act 2000"(**n**) substitute "section 13 of the Offender Management Act 2007(**o**)";

(b) in paragraphs 4(10)(b) (housing costs not met) for "children" substitute "persons" and for "who belong to the same family as the claimant" substitute "but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible";

(c) in paragraph 14(3) (linking rule) after "that section" insert "or under the Enterprise and New Towns (Scotland) Act 1990(**p**)";

(d) and 16(2)(l) (loans for repairs and improvements to the dwelling occupied as the home) for "children" substitute "persons" and for "who are part of the same family as the claimant" substitute "but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible";

(e) in paragraph 18(7)(b) (non-dependant deductions) for "a Youth Training Scheme" substitute "youth training".

(**a**) Paragraph 22 was inserted by S.I. 1988/663 and substituted by S.I. 1991/1175. Relevant amending instruments are: S.I. 1992/1101, 1993/1249, 2004/1141, 2005/3391.
(**b**) Paragraph (4A) was inserted by S.I. 1994/527. Relevant amending instruments are: S.I. 2003/455, 2005/2687.
(**c**) Regulation 51A was inserted by S.I. 1990/1776.
(**d**) Substituted by S.I. 1996/1944. Relevant amending instruments are S.I. 1998/563, 1999/1935, 2001/2319, 2005/2877.
(**e**) 1992 c.37.
(**f**) 1980 c.44.
(**g**) Relevant amendments are S.I. 2000/1922, 2002/1589.
(**h**) S.I. 2008/529.
(**i**) S.S.I. 2007/154.
(**j**) S.R. (NI) 2007 No 195.
(**k**) Substituted by S.I. 1996/1944. Relevant amending instruments are S.I. 2000/1981, 2001/2319.
(**l**) Regulation 66A was inserted by S.I. 1990/1549. Relevant amending instrument is S.I. 2000/1922.
(**m**) Substituted by S.I. 2004/2327.
(**n**) 2000 c.43.
(**o**) 2007 c.21.
(**p**) 1990 c.35.

(12) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings) omit paragraph 45(**a**).

(13) In paragraph 29 of Schedule 10(**b**) (capital to be disregarded) omit ", the Independent Living (1993) Fund".

Amendment of the Social Security (Claims and Payments) Regulations 1987

3.—(1) The Social Security (Claims and Payments) Regulations 1987(**c**) are amended as follows.

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

(a) in sub-paragraph 1(1) (interpretation)—

(i) in the definition of "hostel"(**d**) for sub-paragraph (b)(ii) substitute—

"(ii) managed or owned by a registered social landlord which is registered in accordance with Part 3 of the Housing (Scotland) Act 2001;";

(ii) in the definition of "housing authority"(**e**) omit "Scottish Homes";

(b) in paragraph 9(1B)(a)(**f**) (priority as between certain debts) after "paragraph 3 (housing costs)" add ", paragraph 4 (miscellaneous accommodation costs) or paragraph 4A (hostel payments)".

Amendment of the Jobseeker's Allowance Regulations 1996

4.—(1) The Jobseeker's Allowance Regulations 1996(**g**) are amended as follows.

(2) In regulation 1(3) (citation, commencement and interpretation)—

(a) at the appropriate places insert the following definitions—

""Health Service Act" means the National Health Service Act 2006;

"Health Service (Wales) Act" means the National Health Service (Wales) Act 2006;";

(b) omit the following definitions—

(i) "the Independent Living (Extension) Fund";

(ii) "the Independent Living Fund";

(iii) "the Independent Living (1993) Fund";

(iv) "the Independent Living Funds"(**h**);

(c) for the definition of "sandwich course" substitute—

""sandwich course" has the meaning prescribed in regulation 2(9) of the Education (Student Support) Regulations 2008, regulation 4(2) of the Education (Student Loans) (Scotland) Regulations 2007, regulation 2(8) of the Education (Student Support) Regulations (Northern Ireland) 2007;".

(3) In regulation 50 (persons temporarily absent from Great Britain) for paragraphs (6AA)(b) and (6C)(b)(**i**) substitute—

"(b) that period of temporary absence is for the purpose of the claimant receiving treatment at a hospital or other institution outside Great Britain where the treatment is being provided—

(**a**) Inserted by S.I. 1990/547.
(**b**) Relevant amending instruments are: S.I. 1990/127, 1992/1101, 2007/2538.
(**c**) S.I. 1987/1968.
(**d**) Inserted by S.I. 1991/2284 and substituted by S.I. 2005/2687.
(**e**) Inserted by S.I. 1991/2284.
(**f**) Inserted by S.I. 1993/495.
(**g**) S.I. 1996/207.
(**h**) Relevant amending instrument is S.I. 2007/2538.
(**i**) Paragraphs (6AA) and (6C) were inserted by S.I. 2004/1869.

(i) under section 6(2) of the Health Service Act (performance of functions outside England) or section 6(2) of the Health Service (Wales) Act (performance of functions outside Wales);

(ii) pursuant to arrangements made under section 12(1) of the Health Service Act (Secretary of State's arrangements with other bodies), section 10(1) of the Health Service (Wales) Act (Welsh Minister's arrangements with other bodies), paragraph 18 of Schedule 4 to the Health Service Act (joint exercise of functions) or paragraph 18 of Schedule 3 to the Health Service (Wales) Act (joint exercise of functions); or

(iii) under any equivalent provision in Scotland or pursuant to arrangements made under such provision.".

(4) In regulation 96(**a**) (date on which income is treated as paid)—

(a) in paragraph (1) for "(2) or (3) applies" substitute "(2) to (4) apply";

(b) in paragraph (3)—

(i) for "Working tax credit or child tax credit" substitute "Subject to paragraph (4), working tax credit";

(ii) omit sub-paragraph (c) and the preceding "or";

(c) after paragraph (3) add—

"(4) Where working tax credit is paid by virtue of regulation 7D (ceasing to undertake work or working less than 16 hours a week) of the Working Tax Credit (Entitlement and Maximum Rate) Regulations 2002(**b**), it shall be treated as paid on the first day of the benefit week in which that award of tax credit begins; but this paragraph shall only apply until the last day of the last benefit week that coincides with or precedes the last day for which tax credit is awarded under that regulation.".

(5) In regulation 97(1)(**c**) (calculation of weekly amount of income)—

(a) after "other than earnings)" insert " and regulation 96(3) (date on which income is treated as paid)", and after "a payment" insert "of income or tax credit";

(b) for sub-paragraph (b)(iii) substitute—

"(iii) in a case where that period is a year and the payment is an award of working tax credit, by dividing the payment by the number of days in the year and multiplying the result by 7;

(iiia) in a case where that period is a year and the payment is income other than an award of working tax credit, by dividing the amount of the payment by 52;".

(6) In regulation 105 (notional income)—

(a) in sub-paragraph (10A)(a)(**d**) for "Funds" substitute "Fund (2006)";

(b) in paragraph (11)(**e**) after "partner in that home" insert "or hospital".

(7) In—

(a) regulation 110(10)(c) (income treated as capital),

(b) regulation 113(3A)(a)(**f**) (notional capital),

(c) regulation 149(1)(a)(i)(**g**) (assessment of income and capital in urgent cases),

(d) paragraph 17(8)(b) of Schedule 2 (housing costs),

(**a**) Paragraph (1) was amended by S.I. 2000/681. Paragraph (3) was inserted by S.I. 2000/681 and amended by S.I. 2003/1731.
(**b**) S.I. 2002/2005. Regulation 7D was inserted by S.I. 2007/968.
(**c**) Relevant amending instrument is S.I. 1997/454.
(**d**) Paragraph (10A) was inserted by S.I. 1998/2117.
(**e**) Relevant amending instruments are S.I. 2003/455, 2005/2687.
(**f**) Paragraph (3A) was inserted by 1998/2117. Relevant amending instruments are: S.I. 2004/2308, 2005/3391.
(**g**) Sub-paragraph (a) was substituted by S.I. 1998/563.

(e) paragraphs 22(2) and 41(1) of Schedule 7 (sums to be disregarded in the calculation of income other than earnings),

(f) paragraph 27(1)(**a**) and paragraph 31 of Schedule 8 (capital to be disregarded),

for "Funds" substitute "Fund (2006)".

(8) In regulation 130(**b**) (interpretation) in paragraph (c) of the definition of "standard maintenance grant" omit "and paid under the Further and Higher Education (Scotland) Act 1992".

(9) In regulation 136(**c**) (treatment of student loans)—

(a) in paragraph (1) omit "unless it is a hardship loan in which case it shall be disregarded";

(b) omit paragraph (1A).

(10) In Schedule 2 (housing costs)—

(a) in paragraph 3(11)(c)(i)(bb)(**d**) (circumstances in which a person is to be treated as occupying a dwelling as his home) for "section 9 of Criminal Justice and Court Services Act 2000" substitute "section 13 of the Offender Management Act 2007";

(b) in paragraphs 4(10)(b)(**e**) (housing costs not met) for "children" substitute "persons" and for "who belong to the same family as a claimant" substitute "but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible";

(c) in paragraph 13(3)(**f**) (linking rule) after "that section" insert "or under the Enterprise and New Towns (Scotland) Act 1990";

(d) in paragraph 15(2)(l) (loans for repairs and improvements to the dwelling occupied as the home) for "children" substitute "persons" and for "who are part of the same family as the claimant" substitute "but under the age of 20 who live with the claimant and for whom the claimant or the claimant's partner is responsible";

(e) in paragraph 17(7)(b)(**g**) (non-dependant deductions) for "a Youth Training Scheme" substitute "youth training".

(11) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings) omit paragraph 44.

Amendment of the State Pension Credit Regulations

5.—(1) The State Pension Credit Regulations 2002(**h**) are amended as follows.

(2) In regulation 1(2) (citation, commencement and interpretation)

(a) omit the following definitions—

(i) "the Independent Living Fund";

(ii) "the Independent Living Funds";

(iii) "the Independent Living (Extension) Fund";

(iv) "the Independent Living (1993) Fund";

(b) at the appropriate places insert the following definitions—

""the Health Service Act" means "the National Health Service Act 2006";

"the Health Service (Wales) Act" means "the National Health Service (Wales) Act 2006";".

(**a**) Relevant amending instruments S.I. 2004/1141, 2005/3391.
(**b**) Relevant amending instruments are S.I. 2000/1981, 2001/2319.
(**c**) Relevant amending instrument is S.I. 2000/1922.
(**d**) Substituted by S.I. 2004/2327.
(**e**) Relevant amending instrument is S.I. 2000/1978.
(**f**) Substituted by S.I. 1997/827 and amended by S.I. 2000/1978.
(**g**) Substituted by S.I. 1996/1517. Relevant amending instrument is 1996/2538.
(**h**) S.I. 2002/1792.

(3) In regulation 4(**a**) (persons receiving treatment outside Great Britain) for paragraph (1) substitute—

"(1) For the purposes of the Act, a person who is receiving treatment at a hospital or other institution outside Great Britain shall be treated as being in Great Britain if the treatment is being provided—

(a) under section 6(2) of the Health Service Act (performance of functions outside England) or section 6(2) of the Health Service (Wales) Act (performance of functions outside Wales);

(b) pursuant to arrangements made under section 12(1) of the Health Service Act (Secretary of State's arrangements with other bodies), section 10(1) of the Health Service (Wales) Act (Welsh Ministers' arrangements with other bodies), paragraph 18 of Schedule 4 to the Health Service Act (joint exercise of functions) or paragraph 18 of Schedule 3 to the Health Service (Wales) Act (joint exercise of functions);

(c) under equivalent provision in Scotland or pursuant to arrangements made under such provision.".

(4) In Schedule 2 (housing costs)—

(a) in paragraph 4(11)(c)(i)(bb)(**b**) (circumstances in which a person is to be treated as occupying a dwelling as his home) for the words "section 9 of the Criminal Justice and Court Services Act 2000" substitute "section 13 of the Offender Management Act 2007";

(b) for paragraph 10(6) (excessive housing costs) substitute—

"(6) Where sub-paragraph (4) does not apply and the claimant or the claimant's partner was able to meet the financial commitments for the dwelling occupied as the home when these were entered into, no restriction shall be made under this paragraph during the first 26 weeks immediately following the date on which—

(a) the claimant became entitled to state pension credit where the claimant's housing costs fell within one of the cases in sub-paragraph (1) on that date; or

(b) a decision took effect which was made under section 10 (decisions superseding earlier decisions) of the Social Security Act 1998 on the ground that the claimant's housing costs fell within one of the cases in sub-paragraph (1),

nor during the next 26 weeks if and so long as the claimant uses his best endeavours to obtain cheaper accommodation.";

(c) in paragraph 14(7)(b) (persons residing with the claimant) for the words "a Youth Training Scheme established" substitute "youth training";

(d) in paragraph 14(8)(b) for the word "Funds" substitute "Fund (2006)".

(5) In paragraph 15(1) of Schedule 5(**c**) (income from capital) for the words "Independent Living Funds" substitute "Independent Living Fund (2006)".

Amendment of the Housing Benefit Regulations 2006

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

(2) In regulation 2(1) (interpretation), omit the following definitions—

(a) "community charge benefit";

(b) "the Independent Living Fund";

(c) "the Independent Living Funds"(**e**);

(**a**) Relevant amending instrument is S.I. 2002/3019.
(**b**) Relevant amending instrument is S.I. 2004/2327.
(**c**) Relevant amending instrument is S.I. 2004/1141.
(**d**) S.I. 2006/213.
(**e**) Relevant amending instrument is S.I. 2007/2538.

(d) "the Independent Living (Extension) Fund";

(e) "the Independent Living (1993) Fund".

(3) In regulation 7 (circumstances in which a person is or is not to be treated as occupying a dwelling as his home)—

(a) in paragraph (5), for "section 9(1) of the Criminal Justice and Court Services Act 2000" substitute "section 13 of the Offender Management Act 2007";

(b) in paragraph (16)(c)(i)(bb), for "section 9 of the Criminal Justice and Court Services Act 2000" substitute "section 13 of the Offender Management Act 2007".

(4) In—

(a) regulation 42(7)(a) (notional income),

(b) regulation 46(6) (income treated as capital),

(c) regulation 49(4)(a) (notional capital),

(d) regulation 74(9)(b)(**a**) (non-dependent deductions),

(e) regulation 86(4)(b) and (c) (evidence and information),

(f) paragraph 35(1) of Schedule 5 (sums to be disregarded in the calculation of income other than earnings),

(g) paragraph 24(1) of Schedule 6 (capital to be disregarded) where it first occurs,

for "Funds" substitute "Fund (2006)".

(5) In regulation 53(1) (interpretation)—

(a) in the definition of "contribution" for "Further and Higher Education (Scotland) Act 1992" substitute "Education (Scotland) Act 1980";

(b) in the definition of "standard maintenance grant" omit "and paid under the Further and Higher Education (Scotland) Act 1992".

(6) In regulation 74(7)(b) (non-dependant deductions) for "a Youth Training Scheme" substitute "youth training".

(7) In paragraph 9 of Schedule 2(**b**) (excluded tenancies) for "section 9(1) of the Criminal Justice and Court Services Act 2000" substitute "section 13 of the Offender Management Act 2007".

(8) In paragraph 15(2)(b) of Schedule 3 (applicable amounts) for "regulation 24(2)" substitute "regulation 28(11)(e)".

(9) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 28, for "23C or 24" substitute "23B, 23C or 24A";

(b) omit paragraph 40.

(10) In Schedule 6 (capital to be disregarded)—

(a) in paragraph 19, after "section 17," insert " 23B, " and for "28" substitute "29";

(b) in paragraph 34(**c**) omit ", the Independent Living (1993) Fund";

(c) omit paragraph 36.

(11) In paragraphs (4)(d), (6) and (7) of this regulation the references to regulation 74 and Schedule 2 mean regulation 74 of and Schedule 2 to the Housing Benefit Regulations 2006—

(a) as substituted by regulations 14 and 18 of the Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007(**d**); and

---

(**a**) Substituted by S.I. 2007/2868.
(**b**) Relevant amending instrument is S.I. 2007/2868.
(**c**) Relevant amending instrument is S.I. 2007/2538.
(**d**) S.I. 2007/2868.

(b) as in force for cases to which regulation 14 and 18 of those Regulations do not have effect (non-local housing allowance cases).

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

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

(2) In regulation 2(1) (interpretation), omit the definition of—

(a) "the Independent Living Fund";

(b) "the Independent Living Funds"(**b**).

(c) "the Independent Living (Extension) Fund";

(d) "the Independent Living (1993) Fund";

(3) In regulation 7 (circumstances in which a person is or is not to be treated as occupying the dwelling as his home)—

(a) in paragraph (5) for "section 9(1) of the Criminal Justice and Court Services Act 2000" substitute "section 13 of the Offender Management Act 2007";

(b) in paragraph (16)(c)(i)(bb) for "section 9 of the Criminal Justice and Court Services Act 2000" substitute "section 13 of the Offender Management Act 2007".

(4) In regulation 55 (non-dependant deductions)(**c**)—

(a) in sub-paragraph (7)(b) for "a Youth Training Scheme" substitute "youth training";

(b) in sub-paragraph (10)(b) for "Funds" substitute "Fund (2006)".

(5) In—

(a) regulation 67(4)(b) and (c) (evidence and information),

(b) paragraph 16(1)(b) of Schedule 6 (capital to be disregarded),

for "Funds" substitute "Fund (2006)".

(6) In paragraph 9 of Schedule 2 (excluded tenancies)(**d**) for "section 9(1) of the Criminal Justice and Court Services Act 2000" substitute "section 13 of the Offender Management Act 2007".

(7) In paragraph 14(a)(ii) of Schedule 8 (matters to be included in decision notice) for "income support or an income-based jobseeker's allowance" substitute "state pension credit".

(8) In paragraphs (4) and (6) of this regulation the references to regulation 55 and Schedule 2 mean regulation 55 of and Schedule 2 to the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006—

(a) as substituted by regulations 14 and 18 of the Housing Benefit (State Pension Credit) (Local Housing Allowance and Information Sharing) Amendment Regulations 2007; and

(b) as in force for cases to which regulation 14 and 18 of those Regulations do not have effect (non-local housing allowance cases).

Amendment of the Council Tax Benefit Regulations 2006

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

(2) In regulation 2(1), omit the following definitions—

(a) "community charge benefit";

(**a**) S.I. 2006/214.
(**b**) Relevant amending instrument is S.I. 2007/2538.
(**c**) Regulation 55 was substituted by S.I. 2007/2869.
(**d**) Substituted by S.I. 2007/2869.
(**e**) S.I. 2006/215.

(b) "the Independent Living Fund";

(c) "the Independent Living Funds"(**a**);

(d) "the Independent Living (Extension) Fund";

(e) "the Independent Living (1993) Fund".

(3) In regulation 8(4)(a)(ii) (prescribed persons for the purposes of 131(3)(b) of the Act) for "section 9 of the Criminal Justice and Court Services Act 2000" substitute "section 13 of the Offender Management Act 2007".

(4) In—

(a) regulation 32(7)(a) (notional income),

(b) regulation 36(6) (income treated as capital),

(c) regulation 39(4)(a) (notional capital),

(d) regulation 58(9)(b) (non-dependant deductions),

(e) regulation 72(4)(b) and (c) (evidence and information),

(f) paragraph 2(b) of Schedule 2 (amount of alternative maximum council tax benefit),

(g) paragraph 36(1) of Schedule 4 (sums to be disregarded in the calculation of income other than earnings),

(h) paragraph 24(1) of Schedule 5 (capital to be disregarded) where it first occurs,

for "Funds" substitute "Fund (2006)".

(5) In regulation 43(1) (interpretation)—

(a) in the definition of "contribution" for "Further and Higher Education (Scotland) Act 1992" substitute "Education (Scotland) Act 1980";

(b) in paragraph (c) of the definition of "standard maintenance grant" omit "and paid under the Further and Higher Education (Scotland) Act 1992".

(6) In regulation 58(7)(b) (non-dependant deductions) for "a Youth Training Scheme" substitute "youth training".

(7) In regulation 74(5) (duty to notify changes of circumstances) after "in receipt of" insert "state pension credit,".

(8) In paragraph 13(1)(a)(ii) of Schedule 1 (applicable amounts) omit "community charge benefit or, as the case may be,".

(9) In Schedule 4 (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 29, before "23C" insert "23B,";

(b) omit paragraph 42.

(10) In Schedule 5 (capital to be disregarded)—

(a) in paragraph 19 after "section 17," insert " 23B, " and for "28" substitute "29";

(b) in paragraph 34(**b**) omit ", the Independent Living (1993) Fund";

(c) omit paragraph 36.

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

9.—(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 regulation 2(1) (interpretation), omit the following definitions—

(**a**) Relevant amending instrument is S.I. 2007/2538.
(**b**) Relevant amending instrument is S.I. 2007/2538.
(**c**) S.I. 2006/216.

(a) "the Independent Living Fund";

(b) "the Independent Living Funds"(**a**);

(c) "the Independent Living (Extension) Fund";

(d) "the Independent Living (1993) Fund".

(3) In regulation 8(4)(a)(ii) (prescribed persons for the purposes of 131(3)(b) of the Act) for "section 9 of the Criminal Justice and Court Services Act 2000" substitute "section 13 of the Offender Management Act 2007".

(4) In regulation 42 (non-dependant deductions)—

(a) in paragraph (7)(b) for "a Youth Training Scheme" substitute "youth training";

(b) in paragraph (9)(b) for "Funds" substitute "Fund (2006)".

(5) In—

(a) regulation 57(4)(b) and (c) (evidence and information),

(b) paragraph 16(1)(b) of Schedule 4 (capital disregards),

(c) paragraph 2(b) of Schedule 6 (amount of alternative maximum council tax),

for "Funds" substitute "Fund (2006)".

(6) In regulation 59(5) (duty to notify changes of circumstances), after "in receipt of" insert "state pension credit,".

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

Tony McNulty
Minister of State,
Department for Work and Pensions.

17th October 2008

(**a**) Relevant amending instrument is S.I. 2007/2538.

EXPLANATORY NOTE

(This note is not part of the Regulations)

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

Regulations 2 and 4 to 9 amend the Income Support (General) Regulations 1987 (S.I. 1987/1967) ("the Income Support Regulations"), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) ("the Jobseeker's Allowance Regulations"), the State Pension Credit Regulations 2002 (S.I. 2002/1792) ("the State Pension Credit Regulations"), the Housing Benefit Regulations 2006 (S.I. 2006/213) ("the Housing Benefit Regulations"), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214), the Council Tax Benefit Regulations 2006 (S.I. 2006/215) ("the Council Tax Benefit Regulations") and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/216) so as to:

— remove obsolete references to the Independent Living (Extension) Fund, the Independent Living Fund, the Independent Living (1993) Fund and the Independent Living Funds;

— replace references to the obsolete "Youth Training Scheme" with the correct term which is "youth training";

— replace obsolete references to section 9 of the Criminal Justice and Court Services Act 2000 with references to section 13 of the Offender Management Act 2007 which came into force on 1st April 2008.

Regulations 2, 4, 6 and 8 amend the Income Support Regulations, the Jobseeker's Allowance Regulations, the Housing Benefit Regulations and the Council Tax Benefit Regulations so as to:

— ensure that certain provisions relating to students no longer refer to the Further and Higher Education (Scotland) Act 1992 and, where appropriate, update references to the Education (Scotland) Act 1980;

— remove obsolete references to Community Charge Benefit.

Regulations 2, 4 and 5 amend the Income Support Regulations, the Jobseeker's Allowance Regulations and the State Pension Credit Regulations to update cross-references to legislation under which NHS patients can receive treatment abroad so that such claimants can retain their benefit entitlement while they are abroad.

Regulations 2 and 4 amend the Income Support Regulations and the Jobseeker's Allowance Regulations as to:

— ensure that where Working Tax Credit is awarded for an annual period a weekly amount is calculated by multiplying the daily rate by 7;

— ensure that where Working Tax Credit remains in payment for the first 4 weeks after the claimant ceased work or began working less than 16 hours a week, any such payment may be taken into account from the start of the Income Support or Jobseeker's Allowance claim and for an appropriate number of weeks;

— ensure that any payment made by someone other than the claimant or the claimant's partner towards some or all of the cost of maintaining either one of them in a care home, or an independent hospital, is treated as if the payment was possessed by the claimant or the claimant's partner;

— to clarify that the linking rules for housing costs will also apply if benefit ceases because the claimant or the claimant's partner is undertaking training under the Enterprise and New Towns (Scotland) Act 1990;

— ensure that a loan will qualify for the purposes of housing costs if it is taken out for the provision of separate sleeping accommodation for a person who is under the age of 20 for whom the claimant or the claimant's partner is responsible;

— ensure that the definition of "sandwich course" contains the correct cross-references to current legislation;

— remove obsolete references to "hardship loans" from the student provisions.

Regulations 6 and 8 amend the Housing Benefit Regulations and the Council Tax Benefit Regulations to align them with Income Support and Jobseeker's Allowance so that payments under section 23B of the Children Act 1989 are disregarded and incorrect references to section 28 of the Children (Scotland) Act 1995 are replaced with the correct reference to section 29 of that Act.

Regulation 2 amends the Income Support Regulations so as to correct references to legislation in the definition of "non dependant deduction".

Regulation 3 amends the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) so as to:

— add "miscellaneous housing costs" and "hostel payments" to the priority order for debts for which a deduction from benefit could be made;

— replace an obsolete reference to "Scottish Homes" with a reference to "Communities Scotland".

Regulation 5 amends the State Pension Credit Regulations to clarify the circumstances under which excessive housing costs could be met following a superseding decision.

Regulation 6 amends the Housing Benefit Regulations to ensure that internal cross-references to the definition of "patient" are correct.

Regulation 7 amends the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 to correct provisions relating to the decision notices so that instead of referring to "income support or an income-based jobseeker's allowance" the notice will refer to "state pension credit".

Regulation 8 amends the Council Tax Benefit Regulations so that state pension credit is included in the list of benefits whose cessation must be reported.

A full impact assessment has not been published for this instrument as it has no impact on private and voluntary sectors.

© Crown copyright 2008

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

STATUTORY INSTRUMENTS

2008 No. 2767

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) (No.6) Regulations 2008

£5.00

E3174 10/2008 183174T 19585