

2012 No. 757

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) Regulations
2012**

Made - - - - *8th March 2012*

Laid before Parliament *8th March 2012*

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 the provisions set out in the Schedule to these Regulations.

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

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 him to be representative of the authorities concerned^(b).

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 2012.

(2) Regulations 7, 8 and 12 come into force—

- (a) in relation to any case where rent is payable at intervals of a week or any multiple of a week, on 2nd April 2012;
- (b) in relation to any other case, on 1st April 2012.

(3) Regulations 20(2) and 21 come into force on 1st May 2012.

(4) All other provisions of these Regulations come into force on 1st April 2012.

^(a) 1992 c.5.

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

Interpretation

2. In these Regulations—

- “the Council Tax Benefit Regulations” means the Council Tax Benefit Regulations 2006(a);
- “the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008(b);
- “the Housing Benefit Regulations” means the Housing Benefit Regulations 2006(c);
- “the Income Support Regulations” means the Income Support (General) Regulations 1987(d).

PART 2

Amendments relating to paternity leave and paternity pay

Amendments relating to paternity leave and paternity pay: income support

3.—(1) The Income Support Regulations are amended as follows.

(2) In regulation 2(1) (interpretation) for the definition of “paternity leave”(e) substitute—

““paternity leave” means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996(f) or on additional paternity leave by virtue of section 80AA or 80BB of that Act(g);”.

(3) In paragraph 14B of Schedule 1B(h) (prescribed categories of person: paternity leave)—

- (a) in sub-paragraph (1) for “paternity leave” substitute “ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996”;
- (b) in sub-paragraph (2)(a) for “statutory paternity pay” substitute “ordinary statutory paternity pay”.

(4) In paragraph 4A of Schedule 9(i) (sums to be disregarded in the calculation of income other than earnings) for “statutory paternity pay” substitute “ordinary or additional statutory paternity pay”.

Amendments relating to paternity leave and paternity pay: jobseeker’s allowance

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

(2) In regulation 1(3) (interpretation) for the definition of “paternity leave”(k) substitute—

““paternity leave” means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 or on additional paternity leave by virtue of section 80AA or 80BB of that Act;”.

(3) In Schedule 7(l) (sums to be disregarded in the calculation of income other than earnings)—

- (a) in paragraph 4, for “statutory paternity pay” substitute “ordinary or additional statutory paternity pay”;

(a) S.I.2006/215.

(b) S.I.2008/794.

(c) S.I.2006/213.

(d) S.I.1987/1967.

(e) The definition of “paternity leave” is inserted by S.I.2002/2689.

(f) Sections 80A and 80B are inserted by section 1 of the Employment Act 2002 (c.22).

(g) Sections 80AA and 80BB are inserted by section 3 of the Work and Families Act 2006 (c.18).

(h) Schedule 1B is inserted by S.I. 1996/2006. Paragraph 14B is inserted by S.I.2002/2869. There are amendments not relevant to this instrument.

(i) Paragraph 4A is inserted by S.I.1988/663.

(j) S.I. 1996/207.

(k) The definition of “paternity leave” is inserted by S.I.2002/2689.

(l) Paragraphs 4 and 5 are amended by S.I.2002/2689.

- (b) in paragraph 5 for “statutory paternity pay” substitute “ordinary or additional statutory paternity pay”.

Amendments relating to paternity leave and paternity pay: state pension credit

- 5.—(1) The State Pension Credit Regulations 2002(a) are amended as follows.
- (2) In regulation 1(2) (interpretation) for the definition of “paternity leave”(b) substitute—
 - ““paternity leave” means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 or on additional paternity leave by virtue of section 80AA or 80BB of that Act;”.
- (3) In regulation 15(1) (income for the purposes of the Act) for sub-paragraph (q) substitute—
 - “(q) ordinary statutory paternity pay payable under Part 12ZA of the 1992 Act(c);
 - (qa) additional statutory paternity pay payable under Part 12ZA of the 1992 Act;”.
- (4) In regulation 17A(2)(d) (earnings of an employed earner) for sub-paragraph (i) substitute—
 - “(i) ordinary statutory paternity pay payable under Part 12ZA of the 1992 Act;
 - (ia) additional statutory paternity pay payable under Part 12ZA of the 1992 Act;”.

Amendment relating to paternity leave: employment and support allowance

- 6. In regulation 2(1) of the Employment and Support Allowance Regulations (interpretation) after the definition of “passenger” insert—

““paternity leave” means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 or on additional paternity leave by virtue of section 80AA or 80BB of that Act;”.

Amendments relating to paternity leave and paternity pay: housing benefit for those not of pensionable age

- 7.—(1) The Housing Benefit Regulations are amended as follows.
- (2) In regulation 2(1) (interpretation) for the definition of “paternity leave” substitute—
 - ““paternity leave” means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 or on additional paternity leave by virtue of section 80AA or 80BB of that Act;”.
- (3) In regulation 28(14) (treatment of child care charges)—
 - (a) in sub-paragraph (a)(iii), for “statutory paternity pay by virtue of section 171ZA or 171ZB of the Act” substitute “ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of the Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of the Act(e)”;
 - (b) in sub-paragraph (b)(ii) and (iii), for “statutory paternity pay” in each place substitute “ordinary or additional statutory paternity pay”.
- (4) In regulation 35(1)(i) (earnings of employed earners) for “statutory paternity pay” substitute “ordinary or additional statutory paternity pay”.
- (5) In regulation 36(3)(d) (calculation of net earnings of employed earners) for “statutory paternity pay” substitute “ordinary or additional statutory paternity pay”.

(a) S.I.2002/1792.

(b) The definition of “paternity leave” is inserted by S.I.2003/2274.

(c) Part 12ZA of the Social Security Contributions and Benefits Act 1992 is inserted by section 2 of the Employment Act 2002 (c.22).

(d) Regulation 17A is inserted by S.I.2002/3019 and amended by S.I.2002/3197.

(e) Sections 171ZEA and 171ZEB are inserted by the Schedule to the Work and Families Act 2006 (c.18).

Amendments relating to paternity leave and paternity pay: housing benefit for those of pensionable age

8.—(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) for the definition of “paternity leave” substitute—
 - ““paternity leave” means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 or on additional paternity leave by virtue of section 80AA or 80BB of that Act;”.
- (3) In regulation 29(1)(j) (meaning of “income”), for paragraph (xvi) substitute—
 - “(xvi) ordinary statutory paternity pay payable under Part 12ZA of the Act;
 - (xvia) additional statutory paternity pay payable under Part 12ZA of the Act;”.
- (4) In regulation 31 (treatment of child care charges)—
 - (a) in paragraph (14)(c) for “statutory paternity pay by virtue of section 171ZA or 171ZB of the Act” substitute “ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of the Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of the Act”;
 - (b) in paragraph (15)(b) and (c) for “statutory paternity pay” in each place substitute “ordinary or additional statutory paternity pay”.
- (5) In regulation 35(1) (earnings of employed earners) for paragraph (i) substitute—
 - “(i) ordinary statutory paternity pay payable under Part 12ZA of the Act;
 - (ia) additional statutory paternity pay payable under Part 12ZA of the Act;”.
- (6) In regulation 36(2)(d) (calculation of net earnings of employed earners) for “statutory paternity pay” substitute “ordinary or additional statutory paternity pay”.

Amendments relating to paternity leave and paternity pay: council tax benefit for those not of pensionable age

9.—(1) The Council Tax Benefit Regulations are amended as follows.

- (2) In regulation 2(1) (interpretation) for the definition of “paternity leave” substitute—
 - ““paternity leave” means a period of absence from work on ordinary paternity leave by virtue of section 80A or 80B of the Employment Rights Act 1996 or on additional paternity leave by virtue of section 80AA or 80BB of that Act;”.
- (3) In regulation 18 (treatment of child care charges)—
 - (a) in paragraph (14)(c) for “statutory paternity pay by virtue of section 171ZA or 171ZB of the Act” substitute “ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of the Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of the Act”;
 - (b) in paragraph (15)—
 - (i) in sub-paragraph (b), for “statutory paternity pay” substitute “ordinary or additional statutory paternity pay”;
 - (ii) in sub-paragraph (c), after “statutory maternity pay” insert “, ordinary or additional statutory paternity pay”.
- (4) In regulation 25(1)(i) (earnings of employed earners) for “statutory paternity pay” substitute “ordinary or additional statutory paternity pay”.
- (5) In regulation 26(3)(d) (calculation of net earnings of employed earners) for “statutory paternity pay” substitute “ordinary or additional statutory paternity pay”.

(a) S.I.2006/214.

Amendments relating to paternity leave and paternity pay: council tax benefit for those of pensionable age

10.—(1) The Council Tax 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) for the definition of “paternity leave” substitute—
““paternity leave” means a period of absence from work on ordinary paternity leave by virtue of sections 80A or 80B of the Employment Rights Act 1996(b) or on additional paternity leave by virtue of sections 80AA or 80BB of that Act(c);”.
- (3) In regulation 19(1)(j) (meaning of “income”), for paragraph (xvi) substitute—
“(xvi) ordinary statutory paternity pay payable under Part 12ZA of the Act;
(xvia) additional statutory paternity pay payable under Part 12ZA of the Act;”.
- (4) In regulation 21 (treatment of child care charges)—
(a) in paragraph (14)(c) for “statutory paternity pay by virtue of section 171ZA or 171ZB of the Act” substitute “ordinary statutory paternity pay by virtue of section 171ZA or 171ZB of the Act, additional statutory paternity pay by virtue of section 171ZEA or 171ZEB of the Act”;
(b) in paragraph (15)(b) and (c) for “statutory paternity pay” in each place substitute “ordinary or additional statutory paternity pay”.
- (5) In regulation 25(1) (earnings of employed earners), for paragraph (i) substitute—
“(i) ordinary statutory paternity pay payable under Part 12ZA of the Act;
(ia) additional statutory paternity pay payable under Part 12ZA of the Act;”.
- (6) In regulation 26(2)(d) (calculation of net earnings of employed earners), for “statutory paternity pay” substitute “ordinary or additional statutory paternity pay”.

PART 3

Amendments relating to full-time, non-advanced education

Amendments relating to full-time, non-advanced education: income support

11. In paragraph 15A of Schedule 1B to the Income Support Regulations(d) (prescribed categories of persons: persons under 21 with no parents, or living away from their parents, undertaking full-time, non-advanced education)—

- (a) for the heading substitute—
“Certain persons who have enrolled on, been accepted for or are undertaking full-time, non-advanced education”;
- (b) for sub-paragraphs (1) to (4) substitute—
“(1) A person (“P”) who satisfies the following conditions.
(2) The first condition is that P has enrolled on, been accepted for or is undertaking a course of full-time, non-advanced education.
(3) The second condition is that P is—
(a) under the age of 21; or

(a) S.I.2006/216.

(b) Sections 80A and 80B are inserted by section 1 of the Employment Act 2002 (c.22).

(c) Sections 80AA and 80BB are inserted by section 3 of the Work and Families Act 2006 (c.18).

(d) Schedule 1B is inserted by S.I.1996/206. Paragraph 15A is inserted by S.I.2009/583 and amended by S.I.2009/2665.

- (b) 21 and attained that age whilst undertaking a course of full-time, non-advanced education.
- (4) The third condition is that—
 - (a) P has no parent;
 - (b) of necessity P has to live away from P’s parents because—
 - (i) P is estranged from P’s parents,
 - (ii) P is in physical or moral danger, or
 - (iii) there is a serious risk to P’s physical or mental health; or
 - (c) P is living away from P’s parents because they are unable to support P financially and are—
 - (i) chronically sick or mentally or physically disabled,
 - (ii) detained in custody pending trial or sentencing upon conviction or under a sentence imposed by a court, or
 - (iii) prohibited from entering or re-entering Great Britain.”;
- (c) sub-paragraph (5) is omitted;
- (d) in sub-paragraph (6), for the definition of “course of full-time, non-advanced education”, substitute—

““course of full-time, non-advanced education” means a course of full-time education which is not a course of advanced education and which is not provided to P by virtue of P’s employment or any office held by P, which is—

 - (a) provided at a school or college, or
 - (b) provided elsewhere but is approved by the Secretary of State as being such a course,

and for this purpose, “course of advanced education” has the same meaning as in regulation 61(1)”

Amendments relating to full-time non-advanced education: housing benefit

12. In regulation 56 of the Housing Benefit Regulations^(a) (full-time students to be treated as not liable to make payments in respect of a dwelling)—

- (a) for paragraph (2)(h) substitute—

“(h) who is—

 - (i) aged under 21 and whose course of study is not a course of higher education;
 - (ii) aged 21 and attained that age during a course of study which is not a course of higher education; or
 - (iii) a qualifying young person or child within the meaning of section 142 of the Act (child and qualifying young person);”;
- (b) for paragraph (2A) substitute—

“(2A) Paragraph (2)(h)(ii) only applies to a claimant until the end of the course during which the claimant attained the age of 21.”.

^(a) Regulation 56(2)(h) is substituted by S.I. 2006/718 and amended by S.I.2009/583. Paragraph (2A) is inserted by S.I. 2009/583 and amended by S.I.2010/641. There are other amendments to regulation 56 which are not material to these Regulations.

Amendments relating to full-time non-advanced education: council tax benefit

13. In regulation 45 of the Council Tax Benefit Regulations(**a**) (students who are excluded from entitlement to council tax benefit)—

(a) for paragraph (3)(h) substitute—

“(h) who is—

- (i) aged under 21 and whose course of study is not a course of higher education;
- (ii) aged 21 and attained that age during a course of study which is not a course of higher education; or
- (iii) a qualifying young person or child within the meaning of section 142 of the Act (child and qualifying young person);”;

(b) for paragraph (3A) substitute—

“(3A) Paragraph (3)(h)(ii) only applies to a claimant until the end of the course during which the claimant attained the age of 21.”.

PART 4

Other amendments

Amendment to the Income Support Regulations: persons in relevant education

14. At the end of regulation 13(3)(b)(iii) of the Income Support Regulations (circumstances in which persons in relevant education are to be entitled to income support)(**b**) add—

“; or

- (iv) who is entitled to an employment and support allowance which includes a work-related activity component or support component.”.

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

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

(2) In regulation 21 (direct credit transfer)—

- (a) in paragraph (1)(**d**), for the words from the beginning to “regulation 33(1)(c) or (d),” substitute “The Secretary of State may arrange for benefit to”;
- (b) omit paragraph (5).

(a) Regulation 45(3)(h) is substituted by S.I.2006/718 and amended by S.I.2009/583. Paragraph (3A) is inserted by S.I. 2009/583 and amended by S.I.2010/641. There are other amendments to regulation 45 which are not material to these Regulations.

(b) Regulation 13(3) is amended by S.I.1991/1559, and, in relation to England and Wales, by S.I.1992/4680.

(c) S.I.1987/1968.

(d) Paragraph (1) is substituted by S.I.2002/2441 and amended by S.I.2006/832.

(3) In regulation 38(1)(bb)(a) (extinguishment of right of payment of sums by way of benefit where payment is not obtained within the prescribed period), for “the person entitled to it and the Secretary of State have” substitute “the Secretary of State has”.

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

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

(i) for the definition of “water charges”(b) substitute—

““water charges” means—

(a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991(c);

(b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002(d);”;

(ii) at the end of the definition of “water undertaker”(e) add “or in respect of any area in Scotland, Scottish Water(f)”;

(b) in paragraph 8(4) (maximum amount of payments to third parties)(g), in sub-paragraph (b)(i), for “sub-paragraphs (a)(i) to (iii)” substitute “sub-paragraphs (a)(i) to (iv)”.

Amendment to the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988

16. In regulation 11(2)(b) of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 (recovery of overpayments by automated or other direct credit transfer)(h), for “before he agreed to the arrangement” substitute “before the arrangement came into effect”.

Amendment to the Social Security and Child Support (Decisions and Appeals) Regulations 1999

17. In regulation 7 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(i) (date from which a decision superseded under section 10 takes effect), in paragraph (7)(b)(ii)(aa), after “Income Support Regulations” insert “, regulation 2 of the Jobseeker’s Allowance Regulations”.

Amendments to the Social Fund Winter Fuel Payment Regulations 2000

18.—(1) The Social Fund Winter Fuel Payment Regulations 2000(j) are amended as follows.

(2) In regulation 3 (persons not entitled to a social fund winter fuel payment), in paragraph (1)(k), in sub-paragraph (a), for “in the qualifying week” substitute “throughout the qualifying week”.

(3) In regulation 3(1)(b) and (2)(a) and regulation 4(1) (making a winter fuel payment without a claim), for “before the 31st March” substitute “on or before the 31st March”.

(a) Regulation 38(1)(bb) is inserted by S.I.2005/337.

(b) The definition is substituted by S.I.1992/2595.

(c) 1991 c.56.

(d) 2002 asp 3. Section 29A is inserted by the Water Services etc. (Scotland) Act 2005 (asp 3).

(e) The definition is inserted by S.I.1991/2284.

(f) Scottish Water is a body corporate established under section 20 of the Water Industry (Scotland) Act 2002.

(g) Paragraph 8(4) is added by S.I. 2006/2377 and amended by S.I.2008/1554 and 2010/1907.

(h) S.I.1988/664. Regulation 11 is amended by S.I.1999/2571 and 2005/34.

(i) S.I.1999/991. Regulation 7(7) is substituted by S.I.2006/832.

(j) S.I. 2000/729.

(k) Regulation 3(1) is amended by S.I. 2009/1488.

Amendment to the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001

19. In regulation 1(2) (interpretation) of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(a), in the definition of “official error” for “sub-paragraphs (a) to (c)” substitute “sub-paragraph (a) or (b)”.

Amendments to the Employment and Support Allowance Regulations

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

(2) In regulation 8(2) (relaxation of the first contribution condition) (b)—

- (a) at the end of sub-paragraph (c) add “or”;
- (b) at the end of sub-paragraph (ca) omit “; or”; and
- (c) omit sub-paragraph (d).

(3) In regulation 14 (meaning of education) (c), after paragraph (2) insert—

“(2A) Paragraph (2) does not apply to any course of study which the claimant is required to attend for the purpose of meeting a requirement to undertake work-related activity.”.

Amendment to the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010

21. In regulation 16 of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010(d) (application of other enactments applying to employment and support allowances) after paragraph (1) insert—

“(1A) Where—

- (a) a person makes a claim for an employment and support allowance subsequent to the termination of that person’s entitlement to an employment and support allowance by virtue of these Regulations; and
- (b) the period of limited capability for work in relation to that claim would link, by virtue of regulation 145(1) of the 2008 Regulations, to a period of limited capability for work in respect of which an award was made by virtue of these Regulations,

that person’s entitlement to an award of an employment and support allowance shall be determined in accordance with these Regulations.”.

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

8th March 2012

Freud
Parliamentary Under-Secretary of State
Department for Work and Pensions

(a) S.I. 2001/1002.
(b) Regulation 8 is amended by S.I.2010/2446 and by S.I.2011/2862.
(c) S.I.2008/794.
(d) S.I.2010/1907 as amended by S.I.2010/2430 and S.I.2011/2425.

SCHEDULE

Preamble

Powers exercised by the Secretary of State in the making of these Regulations

Sections 123(1)(a), (d) and (e), 124(1)(d) and (e), 131(3)(b), 136(3) and (5)(b), 136A(3), 137(1) and (2)(i), 138(2) and (4) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992**(a)**

Sections 5(1)(i), (m) and (p), 71(4), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992**(b)**

Sections 12(4)(b), 35(1) and 36(1), (2) and (4) of the Jobseekers Act 1995**(c)**

Sections 10(6), 79(1), (4) and (5) and 84 of the Social Security Act 1998**(d)**

Section 68 of, and paragraphs 4(4) and 20(1) of Schedule 7 to, the Child Support, Pensions and Social Security Act 2000**(e)**

Sections 15(1)(e) and (3), 17(1) and 19(1) of the State Pension Credit Act 2002**(f)**

Sections 1(2), 24(1), 25(1) to (3) and (5) and 29 of, and paragraphs 1(4)(a) and 6(5) of Schedule 1 and paragraphs 1(1) and 7(1)(a) of Schedule 4 to, the Welfare Reform Act 2007**(g)**

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- (a)** 1992 c. 4. Sections 123(1)(e) and 131 are substituted respectively by paragraphs 1(1) and 4 of Schedule 9 to the Local Government Finance Act 1992 (c.14) for the purpose of council tax benefit. Section 124(1)(d) is substituted and section 124(1)(e) added respectively by paragraph 30(4) and (5) of Schedule 2 to the Jobseekers Act 1995 (c.18). Section 136A is inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act 2002 (c.16). Sections 137(1) and 138(4) are interpretation provisions and are cited for the meaning of the word “prescribed”. Section 175(1) and (4) are 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 189(1) and (4) are amended by paragraph 109(a) and (c) of Schedule 7, and Schedule 8, to the Social Security Act 1998 (c.14), paragraph 57(1) and (2) 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). Section 191 is an interpretation provision and is cited for the meaning of the word “prescribe”. The definition of “prescribe” is amended by paragraphs 2 and 10 of Schedule 5 to the Welfare Reform Act 2007 (c.5).
- (c)** 1995 c. 18. Section 35(1) is an interpretation provision and is cited for the meaning of the words “prescribed” and “regulations”.
- (d)** 1998 c. 14. Section 79(1) is amended by paragraph 13 of Schedule 4 to the Tax Credits Act 2002. Section 84 is cited for the meaning of the word “prescribe”.
- (e)** 2000 c.19.
- (f)** 2002 c.16. Section 17(1) is cited for the meaning of the words “prescribed” and “regulations”.
- (g)** 2007 c. 5. Section 24(1) is cited for the meaning of the words “prescribed” and “regulations”. Paragraph 1(4)(a) of Schedule 1 is amended by section 13(5) of the Welfare Reform Act 2009 (c.24).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various sets of social security regulations.

Part 2 makes amendments relating to the introduction of additional paternity leave and additional statutory paternity pay. Regulations 3 to 6 respectively 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 State Pension Credit Regulations 2002 (S.I.2002/1792) and the Employment and Support Allowance Regulations 2008 (S.I.2008/794) (“the Employment and Support Allowance Regulations”). This is so that references in those regulations to paternity leave are references both to ordinary paternity leave and additional paternity leave. However, the relevant disregards for income in relation to national insurance and pension contributions will apply to additional statutory paternity pay and remuneration while a person is on additional paternity leave.

Regulations 7 to 10 respectively amend 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). These ensure that all references in those regulations to paternity leave include both ordinary and additional paternity leave and references to statutory paternity pay include both ordinary and additional statutory paternity pay.

Part 3 amends the Income Support Regulations, the Housing Benefit Regulations and the Council Tax Benefit Regulations to make changes to the circumstances where a claimant is entitled to those benefits where they are in full-time, non-advanced education.

In relation to income support, the amendments made by regulation 11 will apply where the claimant has enrolled on, been accepted for or is undertaking a course of full-time, non-advanced education, is either below the age of 21 or is 21 and attained that age whilst taking part in the course, and in either case has no parents or lives apart from them in the circumstances set out in new sub-paragraph (4) of paragraph 15A of Schedule 1B to the Income Support Regulations. Regulation 11 also changes the definition of “course of full-time, non-advanced education” so that it applies to any course of full-time course of education which is not advanced education, is not provided because of the claimant’s employment or office and which is either provided at a school or college or provided elsewhere but approved by the Secretary of State.

In relation to housing benefit and council tax benefit, the amendments made by regulations 12 and 13 respectively extend the circumstances in which a full-time student whose course of study is not higher education, is exempt from the usual rule that provides that full-time students are to be treated as not being liable to make payments in respect of a dwelling or, as the case may be, excluded from entitlement to council tax benefit. The amendments also both extend the exemption from that rule to full-time students who are 21 and attained that age whilst undertaking a course of study which is not higher education but only until the end of the course. They also remove the requirement that the full-time student began, enrolled on or was accepted for the course before attaining the age of 19.

Part 4 makes other amendments.

Regulation 14 amends the Income Support Regulations so that a person will fall within the definition of “chronically sick or mentally or physically disabled” for the purposes of regulation 13 of those Regulations if they are entitled to the work-related activity component or the support component of employment and support allowance.

Regulation 15 amends the Social Security (Claims and Payments) Regulations 1987 (S.I.1987/1968). Paragraph (2)(a) clarifies that payment of benefit by direct credit transfer need

not be by arrangement with the recipient of the benefit payment. This will enable payment to be arranged in those exceptional cases where the recipient does not wish their own bank or other account to be used. Paragraphs (2)(b) and (3) make consequential amendments to those Regulations and regulation 16 makes a consequential amendment to the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 (S.I.1988/664).

Paragraph (4)(a) of regulation 15 allows deductions to be made from benefit to pay water charges incurred in Scotland and paragraph (4)(b) allows for the maximum amount of payments to third parties, where a claimant or their partner receives a child tax credit or child benefit, to be calculated by reference to the applicable amount of employment and support allowance.

Regulation 17 amends the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I.1999/991) to provide that where a person is claiming a jobseeker's allowance and would be entitled to a severe disability premium if a non-dependant were not in the household, where the non-dependant leaves the household, the superseding decision takes effect on the same date as it would if the person were claiming income support, employment and support allowance or state pension credit.

Regulation 18 amends the Social Fund Winter Fuel Payment Regulations 2000 (S.I.2000/729). This is to clarify that a claimant has to satisfy the qualifying conditions for a winter fuel payment throughout the qualifying week and not just for one day in that week and to provide that all winter fuel payment claim forms must be received by the Department for Work and Pensions on or before the 31st March following the relevant winter period.

Regulation 19 makes a minor amendment to regulation 2 of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 (S.I.2001/1002) to remove a reference to a revoked paragraph (c) in the definition of "official error".

Regulation 20 amends the Employment and Support Allowance Regulations. Paragraph (2) revokes regulation 8(2)(d). Regulation 8 provides that a claimant who satisfies any of the conditions in paragraph (2) is to be taken to satisfy the first contribution condition for entitlement to an employment and support allowance ("ESA"). Paragraph (2)(d) applies in respect of a claimant who on the first day of a period of limited capability for work, had received an award of contributory ESA in the last complete tax year immediately preceding the relevant benefit year in which entitlement to contributory ESA is being decided.

Paragraph (3) amends regulation 14. Paragraph 6 of Schedule 1 to the Welfare Reform Act 2007 (c.5) prescribes that a person is not entitled to income-based ESA if they are receiving education. Regulation 14 defines the term "education" for that purpose. That definition is amended to exempt any course of study that would otherwise fall within that definition where the claimant has been required to participate in it in order to meet a requirement to undertake work-related activity.

Regulation 21 amends regulation 16 of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (S.I.2010/1907) ("the Reassessment Regulations"). The Reassessment Regulations make transitional provision in relation to the introduction of ESA and apply to existing awards of benefit (that is, incapacity benefit, severe disablement allowance and income support on grounds of disability).

Regulation 16 of the Reassessment Regulations provides that certain enactments apply (subject to the modifications specified in Schedule 2 to those Regulations) after an existing award has been converted to an award of ESA, for certain purposes.

Regulation 21 of these Regulations adds paragraph (1A) to regulation 16 of the Reassessment Regulations. It applies where a claim for ESA is made subsequent to the termination of that person's ESA entitlement by virtue of the Reassessment Regulations and the period of limited capability for work in relation to that subsequent claim would link to a period of limited capability for work in respect of an award made under the Reassessment Regulations. In those circumstances, paragraph (1A) ensures that the claimant's entitlement to an ESA award is to be determined in accordance with the Reassessment Regulations.

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

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STATUTORY INSTRUMENTS

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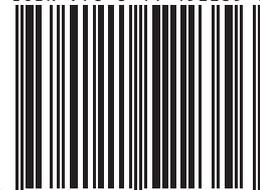
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