
STATUTORY INSTRUMENTS

2017 No. 901

**SOCIAL SECURITY
CHILD SUPPORT**

**The Social Services and Well-being (Wales) Act 2014
and the Regulation and Inspection of Social Care (Wales)
Act 2016 (Consequential Amendments) Order 2017**

Made - - - - *7th September 2017*
Laid before Parliament *13th September 2017*
Coming into force - - *3rd November 2017*

The Secretary of State for Work and Pensions makes the following Order in exercise of the powers conferred by sections 3(3)(c), 42(1), 52(4) and 54(1) of the Child Support Act 1991(1), sections 136(3) and (5)(b), 137(1) and (2)(i) and (l), 138(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(2), sections 12(4)(b), 35(1) and 36(2) and (4)(a) of, and paragraph 12 of Schedule 1 to, the Jobseekers Act 1995(3), sections 15(3) and (6)(b) and 17(1) of the State Pension Credit Act 2002(4), section 150(1)(a) of the Government of Wales Act 2006(5) and sections 17(3)(b), 24(1) and 25(2), (3) and (5)(a) of, and paragraph 6(8) of Schedule 1 to, the Welfare Reform Act 2007(6).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(7), the Social Security Advisory Committee has agreed that proposals in respect of articles 20, 22 and 24 to 27 (8) should not be referred to it.

In respect of the provisions in articles 25 and 26, in accordance with section 176(1) of the Social Security Administration Act 1992(9) the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

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- (1) 1991 c. 48. Section 54(1), which was inserted by Schedule 7 to the Child Maintenance and Other Payments Act 2008 (c. 6), is cited for the meaning of “prescribed”.
- (2) 1992 c. 4. Section 175(1) and (4) was amended by paragraphs 29(2) and (4) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and section 175(1), (3) and (4) is applied to provisions of the State Pension Credit Act 2002 (c. 16) by section 19(1) of that Act. Sections 137(1) and 138(4) are cited for the meaning of “prescribed”.
- (3) 1995 c. 18. Section 35(1) is cited for the meaning of “prescribed” and “regulations”.
- (4) 2002 c. 16. Section 17(1) is cited for the meanings of “prescribed” and “regulations”.
- (5) 2006 c. 32.
- (6) 2007 c. 5. Section 24(1) is cited for the meaning of “prescribed” and “regulations”.
- (7) 1992 c. 5.
- (8) These provisions are contained in an order by virtue of section 105(1) of the Deregulation Act 2015 (c. 20) and, by virtue of section 105(3) of that Act, the reference in sections 172 and 173 of the Social Security Administration Act 1992 to making proposals in regulations includes making proposals in an order.
- (9) Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c. 14), paragraph 3(4) of Schedule 13 to the Housing Act 1996 (c. 52) and section 69(6) of the Child Support, Pensions and Social Security Act

PART 1

Preliminary

Citation and commencement

1. This Order may be cited as the Social Services and Well-being (Wales) Act 2014 and the Regulation and Inspection of Social Care (Wales) Act 2016 (Consequential Amendments) Order 2017 and comes into force on 3rd November 2017.

PART 2

Amendments in consequence of the Social Services and Well-being (Wales) Act 2014

Amendment of the Income Support (General) Regulations 1987

2.—(1) The Income Support (General) Regulations 1987⁽¹⁰⁾ are amended as follows.

(2) In regulation 13 (circumstances in which persons in relevant education are to be entitled to income support), in paragraph (2)(dd), after “hearings etc)” insert “or Part 4 (meeting needs) or Part 6 (looked after and accommodated children) of the Social Services and Well-being (Wales) Act 2014⁽¹¹⁾”.

(3) In regulation 16 (circumstances in which a person is to be treated as being or not being a member of the household)—

(a) in paragraph (4), after sub-paragraph (a) insert—

“(aa) placed with the claimant or his partner by a local authority under section 81(2) of the Social Services and Well-being (Wales) Act 2014; or”;

(b) in paragraph (8)—

(i) in sub-paragraph (za)—

(aa) at the end of paragraph (iii) omit “or”;

(bb) at the end of paragraph (iv) insert—

“ or

(v) under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult);”;

(ii) in sub-paragraph (a), for “and the Children Act 1989” substitute “, the Children Act 1989 and the Social Services and Well-being (Wales) Act 2014”.

(4) In regulation 62 (calculation of grant income), in paragraph (2)(k), after “1989” insert “or Part 6 of the Social Services and Well-being (Wales) Act 2014”.

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

(a) in paragraph 26, after sub-paragraph (a)(i) insert—

2000 (c. 19). By virtue of section 105(3) of the Deregulation Act 2015, the reference in section 176 of the Social Security Administration Act 1992 to “making regulations relating to housing benefit” includes making provision in an order.

(10) S.I. 1987/1967; relevant amending instruments are S.I. 1989/563, 1992/468, 1993/2119, 1995/1613, 1997/65, 1998/563, 1998/2117, 2000/681, 2001/3767, 2003/762, 2003/2279, 2004/1748, 2005/2078, 2005/2687, 2008/698, 2009/583, 2010/641, 2010/2429, 2011/1740, 2013/1465, 2014/513, 2015/643 and 2016/732.

(11) 2014 anaw 4.

- “(ia) section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained);”;
- (b) in paragraph 27, after sub-paragraph (dza) insert—
- “(dzb) the person concerned where the payment is for the provision of accommodation to meet that person’s needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult);”;
- (c) in paragraph 28, in sub-paragraph (1)—
- (i) at the end of paragraph (b) omit “or”;
- (ii) in paragraph (c) for “1995.” substitute—
- “1995, or
- (d) the following sections of the Social Services and Well-being (Wales) Act 2014—
- (aa) section 37 or 38, but excluding any direct payment made in accordance with regulations made under section 51 of that Act, or
- (bb) section 109, 110, 114 or 115.”;
- (d) in paragraph 30, in sub-paragraph (1)(e), at the end insert “or Part 4 of the Social Services and Well-being (Wales) Act 2014 (meeting needs) other than any direct payment made in accordance with regulations made under section 50 or 52 of that Act”;
- (e) in paragraph 30A, in sub-paragraph (2)(b), at the end insert “or under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult)”;
- (f) in paragraph 58, at the end insert “, or in accordance with regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)”;
- (g) in paragraph 66, after “2014 (care and support)” insert “, or the provision of care and support in respect of an adult under Part 4 of the Social Services and Well-being (Wales) Act 2014 (meeting needs)”.
- (6) In Schedule 10 (capital to be disregarded)—
- (a) in paragraph 17, in sub-paragraph (1)—
- (i) at the end of paragraph (b) omit “or”;
- (ii) in paragraph (c) for “1995.” substitute—
- “1995, or
- (d) the following sections of the Social Services and Well-being (Wales) Act 2014—
- (aa) section 37 or 38, but excluding any direct payment made in accordance with regulations made under section 51 of that Act, or
- (bb) section 109, 110, 114 or 115.”;
- (b) in paragraph 43, after “1958” insert “or under Part 4 of the Social Services and Well-being (Wales) Act 2014”;
- (c) in paragraph 67, at the end insert “, or in accordance with regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)”.

Amendment of the Social Security (Attendance Allowance) Regulations 1991

3. In regulation 7 of the Social Security (Attendance Allowance) Regulations 1991 (persons in care homes)(**12**), in paragraph (2)(a)—

- (a) at the end of paragraph (vii) omit “or”;
- (b) after paragraph (vii) insert—
 - “(viii) Part 4 of the Social Services and Well-being (Wales) Act 2014 (meeting needs), or”.

Amendment of the Social Security (Disability Living Allowance) Regulations 1991

4. In regulation 9 of the Social Security (Disability Living Allowance) Regulations 1991 (persons in care homes)(**13**)—

- (a) at the end of paragraph (2)(a)(vii), omit “or”;
- (b) after paragraph (2)(a)(vii), insert—
 - “(viii) Part 4 of the Social Services and Well-being (Wales) Act 2014 (meeting needs), or”;
- (c) in the opening words of paragraph (4), omit “who”;
- (d) at the beginning of paragraphs (4)(a) and (b), insert “who”;
- (e) after paragraph (4)(b), insert—
 - “(ba) to whom section 37, 38 or 42 of the Social Services and Well-being (Wales) Act 2014 applies; or”;
- (f) in paragraph (5), for “(a) and (b)” substitute “(a), (b) and (ba)”.

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992

5.—(1) The Child Support (Maintenance Assessments and Special Cases) Regulations 1992(**14**) are amended as follows.

(2) In regulation 27A (child in care who is allowed to live with their parent), in paragraph (1) after “1989” insert “or under section 81(2) of the Social Services and Well-being (Wales) Act 2014”.

(3) In Schedule 2 (amounts to be disregarded when calculating or estimating N and M)—

- (a) after paragraph 31, insert—
 - “**31A.** In Wales, any payment made by a local authority under—
 - (a) section 37 or 38 of the Social Services and Well-being (Wales) Act 2014 but excluding any direct payment made in accordance with regulations made under section 51 of that Act; or
 - (b) section 104 of that Act as it applies to category 5 or category 6 young persons within the meaning of section 104(2) of that Act.”;
- (b) in paragraph 48C—
 - (i) the existing provision is to stand as sub-paragraph (1);
 - (ii) after sub-paragraph (1) insert—

(12) S.I.1991/2740; relevant amending instruments are S.I. 2007/2875, 2013/389, 2013/2270 and 2015/643.

(13) S.I. 1991/2890; relevant amending instruments are S.I. 2007/2875, 2013/389, 2013/2270 and 2015/643.

(14) S.I. 1992/1815; relevant amending instruments are S.I. 1993/913, 1996/3196, 2001/155, 2004/1748, 2012/2785, 2014/513, 2014/1386 and 2014/1621. These regulations are revoked in relation to particular cases.

“(2) In relation to Wales, any payment to a person as a direct payment made in accordance with regulations made under sections 50 to 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments) in respect of his securing services under Part 4 of the Social Services and Well-being (Wales) Act 2014.”.

Amendment of the Jobseeker’s Allowance Regulations 1996

6.—(1) The Jobseeker’s Allowance Regulations 1996(15) are amended as follows.

(2) In regulation 60 (young persons at the end of the child benefit extension period), in paragraph (1), for sub-paragraph (a) substitute—

“(a) a person who has ceased to live in accommodation provided for him by a local authority under—

- (i) Part 3 of the Children Act 1989 (local authority support children and families), or
- (ii) Part 4 (meeting needs) or 6 (looked after and accommodated children) of the Social Services and Well-being (Wales) Act 2014, and

is of necessity living away from his parents and any person acting in place of his parents;”.

(3) In regulation 78 (circumstances in which a person is to be treated as being or not being a member of the household)—

(a) in paragraph (4), after sub-paragraph (a) insert—

“(aa) placed with the claimant or his partner by a local authority under section 81(2) of the Social Services and Well-being (Wales) Act 2014; or”;

(b) in paragraph (9)—

(i) in sub-paragraph (za), at the end of paragraph (iii) insert—

“ or

(iv) in Wales, under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult);”;

(ii) in sub-paragraph (a) for “and the Children Act 1989” substitute “, the Children Act 1989 and the Social Services and Well-being (Wales) Act 2014”.

(4) In regulation 131 (calculation of grant income), in paragraph (2)(j), after “1989” insert “or Part 6 of the Social Services and Well-being (Wales) Act 2014”.

(5) In regulation 140 (meaning of “person in hardship”), in paragraph (1)(k)—

(a) in paragraph (i), after “1989” insert “or the Social Services and Well-being (Wales) Act 2014”;

(b) in paragraphs (ii) and (iii), for “that Act” substitute “either of those Acts”.

(6) In regulation 146A (meaning of “couple in hardship”), in paragraph (1)(h)—

(a) in paragraph (i), after “1989” insert “or the Social Services and Well-being (Wales) Act 2014”;

(b) in paragraphs (ii) and (iii), for “that Act” substitute “either of those Acts”.

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

(a) in paragraph 27, after sub-paragraph (a)(i) insert—

(15) S.I. 1996/207; relevant amending instruments are S.I. 1997/65, 1998/583, 1998/2117, 2000/239, 2000/1978, 2001/3767, 2003/762, 2003/2279, 2004/1748, 2005/2687, 2008/698, 2009/583, 2009/2655, 2010/641, 2010/2429, 2011/1740, 2014/513, 2015/643 and 2016/732.

- “(ia) section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained);”;
- (b) in paragraph 28, after sub-paragraph (dza) insert—
- “(dzb) the person concerned where the payment is for the provision of accommodation to meet that person’s needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult);”;
- (c) in paragraph 29, in sub-paragraph (1)—
- (i) at the end of paragraph (b) omit “or”;
- (ii) in paragraph (c) for “1995.” substitute—
- “1995, or
- (d) the following sections of the Social Services and Well-being (Wales) Act 2014—
- (aa) section 37 or 38, but excluding any direct payment made in accordance with regulations made under section 51 of that Act, or
- (bb) section 109, 110, 114 or 115.”;
- (d) in paragraph 31, in sub-paragraph (1)(e), at the end insert “or Part 4 of the Social Services and Well-being (Wales) Act 2014 (meeting needs) other than any direct payment made in accordance with regulations made under section 50 or 52 of that Act”;
- (e) in paragraph 32, in sub-paragraph (2)(b), at the end insert “or under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and powers to meet care and support needs of an adult)”;
- (f) in paragraph 56, at the end insert “or in accordance with regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)”;
- (g) in paragraph 64, after “2014,” insert “or the provision of care and support under Part 4 of the Social Services and Well-being (Wales) Act 2014.”.
- (8) In Schedule 8 (capital to be disregarded)—
- (a) in paragraph 22, in sub-paragraph (1)—
- (i) at the end of paragraph (b) omit “or”;
- (ii) in paragraph (c) for “1995.” substitute—
- “1995, or
- (d) the following sections of the Social Services and Well-being (Wales) Act 2014—
- (aa) section 37 or 38, but excluding any direct payment made in accordance with regulations made under section 51 of that Act, or
- (bb) section 109, 110, 114 or 115.”;
- (b) in paragraph 41, after “1958” insert “or under Part 4 of the Social Services and Well-being (Wales) Act 2014”;
- (c) in paragraph 60, at the end insert “, or in accordance with regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)”.

Amendment of the Child Support (Maintenance Calculations and Special Cases) Regulations 2001

7.—(1) The Child Support (Maintenance Calculations and Special Cases) Regulations 2001(16) are amended as follows.

(2) In regulation 9 (care provided in part by a local authority), in paragraph (11) at the end insert “or section 74 of the Social Services and Well-being (Wales) Act 2014”.

(3) In regulation 13 (child in care who is allowed to live with their parent), in paragraph (1), after “1989” insert “or section 81(2) of the Social Services and Well-being (Wales) Act 2014”.

Amendment of the Social Security (Loss of Benefit) Regulations 2001

8.—(1) The Social Security (Loss of Benefit) Regulations 2001(17) are amended as follows.

(2) In regulation 5 (meaning of “person in hardship”), in paragraph (1)(k)—

(a) in paragraph (i) after “1989” insert “or the Social Services and Well-being (Wales) Act 2014”;

(b) in paragraphs (ii) and (iii) for “that Act” substitute “either of those Acts”.

(3) In regulation 11 (application of Part and meaning of “couple in hardship”), in paragraph (2)(h)—

(a) in paragraph (i) after “1989” insert “or the Social Services and Well-being (Wales) Act 2014”;

(b) in paragraphs (ii) and (iii) for “that Act” substitute “either of those Acts”.

Amendment of the State Pension Credit Regulations 2002

9.—(1) The State Pension Credit Regulations 2002(18) are amended as follows.

(2) In regulation 17B (earnings of self-employed earners), in paragraph (4)(b), in the text of the inserted paragraph (2)—

(a) after sub-paragraph (b)(i) insert—

“(ia) section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained);”;

(b) at the end of sub-paragraph (d)(vi) omit “or”;

(c) after sub-paragraph (d)(vii) insert—

“ or

(viii) the person concerned where the payment is for the provision of accommodation to meet that person’s needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult);”.

(3) In Part 1 of Schedule 5 (income from capital: capital disregarded for the purpose of calculating income), in paragraph 23C—

(a) at the end of sub-paragraph (c) omit “or”;

(b) in sub-paragraph (d) for “(direct payments).” substitute—

(16) S.I. 2001/155; relevant amending instruments are S.I. 2012/2785, 2014/1386 and 2014/1621. These regulations are revoked in relation to particular cases.

(17) S.I. 2001/4022, to which there are amendments not relevant to this Order.

(18) S.I. 2002/1792; relevant amending instruments are S.I. 2002/3019, 2008/3157, 2010/2429, 2011/2425, 2013/235, 2014/513, 2015/643 and 2016/732.

- “(direct payments); or
- (e) by virtue of regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments).”.

Amendment of the Social Fund Maternity and Funeral Expenses (General) Regulations 2005

10. In regulation 4A of the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 (persons to be treated as responsible for children)(**19**), in paragraph (4)(a), after “1995,” insert “or section 74 of the Social Services and Well-being (Wales) Act 2014.”.

Amendment of the Housing Benefit Regulations 2006

11.—(1) The Housing Benefit Regulations 2006(**20**) are amended as follows.

(2) In regulation 2 (interpretation), in paragraph (1), in the definition of “young individual”, in sub-paragraph (c), after “1989” insert “or section 76 of the Social Services and Well-being (Wales) Act 2014”.

(3) In regulation 21 (circumstances in which a person is to be treated as being or not being a member of the household), in paragraph (3)(a) after “Children Act 1989” insert “or section 81(2) of the Social Services and Well-being (Wales) Act 2014”.

(4) In regulation 52 (calculation of tariff income from capital), in paragraph (8)(a) after “establishments)” insert “or under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult)”.

(5) In regulation 56 (full-time students to be treated as not liable to make payments in respect of a dwelling), in paragraph (2)(g)—

- (a) at the end of paragraph (i) omit “or”;
- (b) after paragraph (i) insert—

“(ia) in Wales, placed by a local authority under section 81(2) of the Social Services and Well-being (Wales) Act 2014; or”.

(6) In regulation 59 (calculation of grant income), in paragraph (2)(i), after “1989” insert “or Part 6 of the Social Services and Well-being (Wales) Act 2014”.

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

- (a) in paragraph 26, after sub-paragraph (a)(i) insert—

“(ia) section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained);”;

- (b) in paragraph 27, after sub-paragraph (dza) insert—

“(dzb) the person concerned where the payment is for the provision of accommodation to meet that person’s needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult);”;

- (c) in paragraph 28, at the end insert “or section 37 or 38 of the Social Services and Well-being (Wales) Act 2014, but excluding any direct payment made in accordance with regulations made under section 51 of that Act, or section 109, 110, 114 or 115 of that Act”;

- (d) in paragraph 28A, in sub-paragraph (1), after “young persons)” insert “or section 110 of the Social Services and Well-being (Wales) Act 2014 (support for category 3 young people);”;

(19) S.I. 2005/3061, amended by S.I. 2011/100; there are other amending instruments but none is relevant.

(20) S.I. 2006/213; relevant amending instruments are S.I. 2007/2868, 2008/698, 2008/2767, 2009/583, 2010/641, 2010/2429, 2010/2449, 2010/2835, 2011/1736, 2011/1740, 2013/1465, 2014/513, 2015/643 and 2016/732.

- (e) in paragraph 57, at the end insert “or in accordance with regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)”.
- (8) In Schedule 6 (capital to be disregarded)—
 - (a) in paragraph 19, at the end insert “or section 37 or 38 of the Social Services and Well-being (Wales) Act 2014, but excluding any direct payment made in accordance with regulations made under section 51 of that Act, or section 109, 110, 114 or 115 of that Act”;
 - (b) in paragraph 19A, in sub-paragraph (1), after “young persons)” insert “or section 110 of the Social Services and Well-being (Wales) Act 2014 (support for category 3 young people)”;
 - (c) in paragraph 44, after “1958” insert “or under Part 4 of the Social Services and Well-being (Wales) Act 2014”;
 - (d) in paragraph 58, at the end insert “, or in accordance with regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)”.

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

12.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006⁽²¹⁾ are amended as follows.

(2) In regulation 13D (determination of a maximum rent (LHA)), in paragraph (12), in sub-paragraph (b) of the definition of “care leaver”, after “1989” insert “or section 76 of the Social Services and Well-being (Wales) Act 2014”.

(3) In regulation 21 (circumstances in which a person is to be treated as being or not being a member of the household), in paragraph (3)(a) after “Children Act 1989” insert “or section 81(2) of the Social Services and Well-being (Wales) Act 2014”.

(4) In regulation 38 (earnings of self-employed earners), in paragraph (2)—

(a) in sub-paragraph (b)(i), after “or, as the case may be,” insert “section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained),”;

(b) in sub-paragraph (d)—

(i) at the end of paragraph (vi) omit “or”;

(ii) after sub-paragraph (vii) insert—

“ or

(viii) the person concerned where the payment is for the provision of accommodation to meet that person’s needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult);”.

(5) In Schedule 6 (capital to be disregarded), in paragraph 26D—

(a) at the end of sub-paragraph (c) omit “or”;

(b) after sub-paragraph (d) insert—

“ or

(e) by virtue of regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments).”.

⁽²¹⁾ S.I. 2006/214; relevant amending instruments are S.I. 2008/3157, 2010/2449, 2011/2425, 2011/1740, 2013/1465, 2015/643 and 2016/732.

Amendment of the Employment and Support Allowance Regulations 2008

13.—(1) The Employment and Support Allowance Regulations 2008⁽²²⁾ are amended as follows.

(2) In regulation 132 (calculation of grant income), in paragraph (2)(j) after “1989” insert “or under Part 6 of the Social Services and Well-being (Wales) Act 2014”.

(3) In regulation 156 (circumstances in which a person is to be treated as being or not being a member of the household)—

(a) in paragraph (5), after sub-paragraph (a) insert—

“(aa) placed with the claimant or the claimant’s partner by a local authority under section 81(2) of the Social Services and Well-being (Wales) Act 2014;”;

(b) in paragraph (9), in the definition of “accommodation”—

(i) at the end of sub-paragraph (b) omit “or”;

(ii) after sub-paragraph (b) insert—

“(ba) in Wales, under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014; or”.

(4) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings)—

(a) in paragraph 28, after sub-paragraph (a)(i) insert—

“(ia) section 81(2) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained);”;

(b) in paragraph 29, in sub-paragraph (g), at the end insert “or under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and powers to meet care and support needs of an adult)”;

(c) in paragraph 30, in sub-paragraph (1)—

(i) at the end of paragraph (b) omit “or”;

(ii) in paragraph (c) for “young persons.” substitute—

“young persons); or

(d) the following sections of the Social Services and Well-being (Wales) Act 2014—

(aa) section 37 or 38, but excluding any direct payment made in accordance with regulations made under section 51 of that Act,
or

(bb) section 109, 110, 114 or 115.”;

(d) in paragraph 32, in sub-paragraph (1)(e), at the end insert “or Part 4 of the Social Services and Well-being (Wales) Act 2014 (meeting needs) other than any direct payment made in accordance with regulations made under section 50 or 52 of that Act”;

(e) in paragraph 34, in sub-paragraph (2)(b), at the end insert “or under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet care and support needs of an adult)”;

(f) in paragraph 53, at the end insert “, or in accordance with regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)”;

(g) in paragraph 56, after “2014 (care and support)” insert “, or the provision of care and support in respect of an adult under Part 4 of the Social Services and Well-being (Wales) Act 2014”.

⁽²²⁾ S.I. 2008/794; relevant amending instruments are S.I. 2009/583, 2010/641, 2010/2429, 2014/513, 2015/643 and 2016/732.

- (5) In Schedule 9 (capital to be disregarded)—
 - (a) in paragraph 22, in sub-paragraph (1)—
 - (i) at the end of paragraph (b) omit “or”;
 - (ii) in paragraph (c) for “young persons.” substitute—
 - “young persons); or
 - (d) the following sections of the Social Services and Well-being (Wales) Act 2014—
 - (aa) section 37 or 38, but excluding any direct payment made in accordance with regulations made under section 51 of that Act, or
 - (bb) section 109, 110, 114 or 115.”;
 - (b) in paragraph 42, after “1958” insert “or under Part 4 of the Social Services and Well-being (Wales) Act 2014”;
 - (c) in paragraph 56, at the end insert “, or in accordance with regulations made under section 50 or 52 of the Social Services and Well-being (Wales) Act 2014 (direct payments)”.

Amendment of the Child Support Maintenance Calculation Regulations 2012

14.—(1) The Child Support Maintenance Calculation Regulations 2012⁽²³⁾ are amended as follows.

(2) In regulation 51 (child in care who is allowed to live with their parent), in paragraph (1), after “1989” insert “or section 81(2) of the Social Services and Well-being (Wales) Act 2014”.

(3) In regulation 53 (care provided in part by a local authority), in paragraph (12), at the end insert “or section 74 of the Social Services and Well-being (Wales) Act 2014”.

- (4) In regulation 64 (illness or disability of relevant other child), in paragraph (2)(f)—
 - (a) omit paragraph (i);
 - (b) at the end of paragraph (ia) omit “or”;
 - (c) after paragraph (ii) insert—
 - “ or
 - (iii) registered as severely sight impaired in a register kept by a local authority in Wales under section 18(1)(a) of the Social Services and Well-being (Wales) Act 2014;”.

- (5) In regulation 78 (persons who are not persons with care)—
 - (a) in paragraph (1), in sub-paragraph (c) for “1995.” substitute—
 - “1995;
 - (d) in Wales, a person with whom a child who is looked after by a local authority is placed by that authority under the provisions of Part 6 of the Social Services and Well-being (Wales) Act 2014, except where that person is a parent of such a child and the local authority allow the child to live with that parent under section 81(2) of that Act.”;
 - (b) in paragraph (2), in the definition of “a child who is looked after by a local authority” after “1995” insert “or section 74 of the Social Services and Well-being (Wales) Act 2014”.

⁽²³⁾ S.I. 2012/2677, amended by S.I. 2015/643; there are other amending instruments but none is relevant.

Amendment of the Universal Credit Regulations 2013

15. In Schedule 10 to the Universal Credit Regulations 2013 (capital to be disregarded)(**24**), in paragraph 17(1)(a), for “or section 29 or 30 of the Children (Scotland) Act 1995” substitute “, section 29 or 30 of the Children (Scotland) Act 1995 or section 37, 38, 109, 110, 114 or 115 of the Social Services and Well-being (Wales) Act 2014”.

Amendment of the Social Security (Personal Independence Payment) Regulations 2013

16. In regulation 28 of the Social Security (Personal Independence Payment) Regulations 2013 (care home residents)(**25**)—

- (a) at the end of paragraph (2)(eea) omit “or”;
- (b) after paragraph (2)(eea) insert—
 - “(eeb) Part 4 of the Social Services and Well-being (Wales) Act 2014 (meeting needs), or”;
- (c) at the end of paragraph (3)(a) omit “or”;
- (d) after paragraph (3)(a) insert—
 - “(aa) to whom section 37, 38 or 42 of the Social Services and Well-being (Wales) Act 2014 applies; or”;
- (e) in paragraph (4) for “Paragraph (3)(a) only applies” substitute “Paragraphs (3)(a) and (aa) only apply”.

Amendment of the Jobseeker’s Allowance Regulations 2013

17. In regulation 60 of the Jobseeker’s Allowance Regulations 2013 (earnings of self-employed earners)(**26**), in paragraph (2)—

- (a) after sub-paragraph (b)(i) insert—
 - “(ia) under section 81(2), (3), (5) or (6)(a) or (b) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained);”;
- (b) in sub-paragraph (c)—
 - (i) at the end of paragraph (vi) omit “or”;
 - (ii) after paragraph (vii) insert—
 - “ or
 - (viii) the person concerned where the payment is for the provision of accommodation to meet that person’s needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet needs for care and support of an adult);”.

Amendment of the Employment and Support Allowance Regulations 2013

18. In regulation 37 of the Employment and Support Allowance Regulations 2013 (claimant who works to be treated as not entitled to an employment and support allowance)(**27**), in paragraph (7)—

- (a) after sub-paragraph (a)(i) insert—

(24) S.I. 2013/376, to which there are amendments not relevant to this Order.

(25) S.I. 2013/377; relevant amending instruments are S.I. 2013/2270 and 2015/643.

(26) S.I. 2013/378, amended by S.I. 2015/643; there are other amending instruments but none is relevant.

(27) S.I. 2013/379, amended by S.I. 2015/643; there are other amending instruments but none is relevant.

- “(ia) under section 81(2), (3), (5) or (6)(a) or (b) of the Social Services and Well-being (Wales) Act 2014 (ways in which looked after children are to be accommodated and maintained);”;
- (b) in sub-paragraph (b)—
- (i) at the end of paragraph (vi) omit “or”;
- (ii) in paragraph (vii) for “care and support)” substitute—
- “care and support); or
- (viii) the person concerned where the payment is for the provision of accommodation to meet that person’s needs for care and support under section 35 or 36 of the Social Services and Well-being (Wales) Act 2014 (duty and power to meet needs for care and support of an adult).”.

PART 3

Amendment in consequence of Regulation and Inspection of Social Care (Wales) Act 2016

Amendment of the Jobseeker’s Allowance Regulations 1996

19. In regulation 14A (victims of domestic violence) of the Jobseeker’s Allowance Regulations 1996(**28**), in paragraph (10), for paragraph (b) of the definition of “registered social worker” substitute—

“(b) Social Care Wales,”.

PART 4

Other miscellaneous amendments

Amendment of the Income Support (General) Regulations 1987

20.—(1) The Income Support (General) Regulations 1987(**29**) are amended as follows.

(2) In regulation 16 (circumstances in which a person is to be treated as being or not being a member of the household), in paragraph (4)(a) for “section 23(2)(a)” substitute “section 22C(2)”.

(3) In Schedule 9 (sums to be disregarded in the calculation of income other than earnings), in paragraph 26(a), for paragraph (i) substitute—

“(i) section 22C(2) of the Children Act 1989 (ways in which looked after children are to be accommodated and maintained),”.

(28) S.I. 1996/207; relevant amending instruments are S.I. 2012/853, 2012/1479 and 2013/2722.

(29) S.I. 1987/1967; relevant amending instruments are S.I. 1992/468 and 2010/2429.

Amendment of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992

21. In regulation 27A (child in care who is allowed to live with their parent) of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992⁽³⁰⁾, in paragraph (1) omit “or 23(5)”.

Amendment of the Jobseeker’s Allowance Regulations 1996

22.—(1) The Jobseeker’s Allowance Regulations 1996⁽³¹⁾ are amended as follows.

(2) In regulation 78 (circumstances in which a person is to be treated as being or not being a member of the household), in paragraph (4), in sub-paragraph (a), for “section 23(2)(a)” substitute “section 22C(2)”.

(3) In Schedule 7 (sums to be disregarded in the calculation of income other than earnings), in paragraph 27(a), for paragraph (i) substitute—

“(i) section 22C(2) of the Children Act 1989 (ways in which looked after children are to be accommodated and maintained),”.

Amendment of the Child Support (Maintenance Calculations and Special Cases) Regulations 2001

23. In regulation 13 (child in care who is allowed to live with their parent) of the Child Support (Maintenance Calculations and Special Cases) Regulations 2001⁽³²⁾, in paragraph (1) omit “or 23(5)”.

Amendment of the State Pension Credit Regulations 2002

24. In regulation 17B (earnings of self-employed earners) of the State Pension Credit Regulations 2002⁽³³⁾, in paragraph (4)(b), in the text of the inserted paragraph (2)(b), for sub-paragraph (i) substitute—

“(i) section 22C(2) of the Children Act 1989 (ways in which looked after children are to be accommodated and maintained),”.

Amendment of the Housing Benefit Regulations 2006

25.—(1) The Housing Benefit Regulations 2006⁽³⁴⁾ are amended as follows.

(2) In regulation 21 (circumstances in which a person is to be treated as being or not being a member of the household), in paragraph (3)(a) for “section 23(2)(a)” substitute “section 22C(2)”.

(3) In regulation 56 (full-time students to be treated as not liable to make payments in respect of a dwelling), in paragraph (2)(g)(i) for “section 23(2)(a)” substitute “section 22C(2)”.

(4) In Schedule 4 (sums to be disregarded in the calculation of earnings), in paragraph 17(2)(b), for sub-paragraph (iv) substitute—

“(iv) not being a member of a couple, is engaged in remunerative work for on average not less than 16 hours per week and—

⁽³⁰⁾ S.I. 1992/1815; relevant amending instruments are S.I. 1993/913, 2001/155, 2012/2785, 2014/1386 and 2014/1621. These regulations are revoked in relation to particular cases.

⁽³¹⁾ S.I. 1996/207, amended by S.I. 2010/2429.

⁽³²⁾ S.I. 2001/155; relevant amending instruments are S.I. 2012/2785, 2014/1386 and 2014/1621. These regulations are revoked in relation to particular cases.

⁽³³⁾ S.I. 2002/1792; relevant amending instruments are S.I. 2010/2429 and 2016/732.

⁽³⁴⁾ S.I. 2006/213; relevant amending instruments are S.I. 2008/1082, 2010/2429, 2013/1465, 2017/204 and 2017/581.

- (aa) the claimant's applicable amount includes a disability premium under paragraph 12, or the support component under paragraph 24, of Schedule 3; or
- (bb) the claimant is a member of the work-related activity group; or
- (v) is a member of a couple and at least one member of that couple is engaged in remunerative work for on average not less than 16 hours per week and that member of the couple—
 - (aa) satisfies the qualifying conditions for the disability premium under paragraph 12 or the support component under paragraph 24 of Schedule 3; or
 - (bb) is a member of the work-related activity group; or”.
- (5) In Schedule 5 (sums to be disregarded in the calculation of income other than earnings), in paragraph 26(a), for paragraph (i) substitute—
 - “(i) section 22C(2) of the Children Act 1989 (ways in which looked after children are to be accommodated and maintained),”.

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

26.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006⁽³⁵⁾ are amended as follows.

(2) In regulation 21 (circumstances in which a person is to be treated as being or not being a member of the household), in paragraph (3)(a) for “section 23(2)(a)” substitute “section 22C(2)”.

(3) In regulation 38 (earnings of self-employed earners), in paragraph (2)(b)(i), for “section 23(2)(a) of the Children Act 1989 (provision of accommodation and maintenance for a child whom they are looking after)” substitute “section 22C(2) of the Children Act 1989 (ways in which looked after children are to be accommodated and maintained)”.

Amendment of the Employment and Support Allowance Regulations 2008

27.—(1) The Employment and Support Allowance Regulations 2008⁽³⁶⁾ are amended as follows.

(2) In regulation 156 (circumstances in which a person is to be treated as being or not being a member of the household), in paragraph (5)(a), for “section 23(2)(a)” substitute “section 22C(2)”.

(3) In Schedule 8 (sums to be disregarded in the calculation of income other than earnings), in paragraph 28(a), for paragraph (i) substitute—

“(i) section 22C(2) of the Children Act 1989 (ways in which looked after children are to be accommodated and maintained),”.

Amendment of the Child Support Maintenance Calculation Regulations 2012

28.—(1) The Child Support Maintenance Calculation Regulations 2012⁽³⁷⁾ are amended as follows.

(2) In regulation 51 (child in care who is allowed to live with their parent), in paragraph (1) omit “or 23(5)”.

(3) In regulation 78 (persons who are not persons with care), in paragraph (1)(b) omit “or 23(5)”.

⁽³⁵⁾ S.I. 2006/214; relevant amending instruments are S.I. 2013/1465 and 2016/732.

⁽³⁶⁾ S.I. 2008/794, amended by S.I. 2010/2429.

⁽³⁷⁾ S.I. 2012/2677.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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

7th September 2017

Damian Hinds
Minister of State
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Order)

Part 2 of this Order makes a number of amendments to secondary legislation relating to social security following the coming into force of the Social Services and Well-being (Wales) Act 2014 (2014 anaw 4) (“SSWBWA 2014”).

Parts 2 to 6 of the SSWBWA 2014 make provision about improving the well-being outcomes for people in Wales who need care and support. The legal framework for the provision of care and support for adults in England is contained in the Care Act 2014 (c. 23) with Part 3 of the Children Act 1989 (c. 41) making provision for care and support for children and their families. Part 3 of the Children Act 1989 no longer applies in relation to Wales. In general, social security secondary legislation is amended so as to include reference to the SSWBWA 2014 in provisions which refer to the Care Act 2014 or the Children Act 1989.

Part 3 of this Order amends the definition of “registered social worker” in regulation 14A of the Jobseeker’s Allowance Regulations 1996 to reflect the renaming, by Part 3 of the Regulation and Inspection of Social Care (Wales) Act 2016 (anaw 2) of the Care Council for Wales as Social Care Wales. That definition relates to who is deemed to be a person acting in an official capacity who can provide evidence that domestic violence has been inflicted or threatened against a claimant for jobseeker’s allowance, thereby relaxing certain requirements for entitlement to that benefit.

Part 4 of this Order makes other miscellaneous amendments to social security secondary legislation. In particular, references in secondary legislation to section 23(2)(a) of the Children Act 1989 are omitted and, in some cases, amended to refer instead to section 22C(2) of that Act which was substituted for section 23 by section 8(1) of the Children and Young Persons Act 2008 (c. 23). An error in paragraph 17(2)(b)(iv) of Schedule 4 to the Housing Benefit Regulations 2006 is also corrected so that it is clear that, where the claimant is a member of a couple and one of them is engaged in remunerative work for on average not less than 16 hours a week, it is the member of the couple who is working who must meet the other qualifying conditions for the disregard.

An impact assessment has not been produced for this instrument as it has no impact on business or civil society organisations.