

## 2013 No. 443

### SOCIAL SECURITY

#### The Social Security (Miscellaneous Amendments) Regulations 2013

*Made* - - - - 25th February 2013

*Laid before Parliament* 4th March 2013

*Coming into force in accordance with regulation 1*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(d), 135(1), 136(1), 136A(3), 137(1) and (2)(h) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 5(1)(p) and (2) and 189(1), (4) and (5) of the Social Security Administration Act 1992(b), sections 4(5), 8(2), 12(4), 13(2), 19A(4), 19B(2) and (4), 35(1) and 36(2) and (4) of the Jobseekers Act 1995(c), sections 10(6), 79(1) and 84 of the Social Security Act 1998(d), sections 2(3)(b), 15(3) and (6), 17(1) and 19(1) of the State Pension Credit Act 2002(e), sections 17(1) and (3)(b), 24(1) and 25(2), (3) and (5)(a) of the Welfare Reform Act 2007(f), and sections 92(1) and (4) and 94(1) of the Welfare Reform Act 2012(g).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992, 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.

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- (a) 1992 c. 4. Section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”. Section 175(1) and (4) was 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 5(2) was amended by paragraph 39 of Schedule 2 to the Jobseekers Act 1995 (c. 18), paragraphs 1 and 3 of Schedule 1 to the State Pension Credit Act 2002 (c. 16), Schedule 6 to the Tax Credits Act 2002 (c. 21), paragraph 10 of Schedule 3 to the Welfare Reform Act 2007 (c. 5), section 132(1) of the Health and Social Care Act 2008 (c. 14), Part 1 of Schedule 7 to the Welfare Reform Act 2009 (c. 24) and paragraph 5 of Schedule 2 and paragraph 9 of Schedule 9 to the Welfare Reform Act 2012 (c. 5). Schedule 189 (1), (4) and (5) was amended by paragraph 109 of Schedule 7 and by Schedule 8 to the Social Security Act 1998 (c. 14). Section 189(1) was also amended by paragraph 57(1) and (2) of Schedule 3 to the Social Security (Transfer of Functions, etc.) Act 1999, Schedule 6 to the Tax Credits Act 2002 and section 104 of the Welfare Reform Act 2012.
- (c) 1995 c. 18. Section 8(2) was amended by paragraph 2(3) of Schedule 7 to the Welfare Reform Act 2012 (c. 5). Sections 19A and 19B were introduced by section 46(1) of the Welfare Reform Act 2012. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”. Section 36(4)(a) was amended by paragraph 63 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999.
- (d) 1998 c. 14. Section 79(1) was amended by paragraphs 12 and 13 of Schedule 4 to the Tax Credits Act 2002 and paragraphs 143 and 168(a) of Schedule 3 to S.I. 2008/2833. Section 84 is an interpretation provision and is cited because of the meaning given to the word “prescribe”.
- (e) 2002 c. 16. Section 17(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”.
- (f) 2007 c. 5. Section 24(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”. Sections 24(1) and 25(1) have been amended in ways not material to these Regulations.
- (g) 2012 c. 5.

In respect of the provisions in these Regulations relating to housing benefit, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned<sup>(a)</sup>.

#### Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 2013 and subject to paragraphs (2) and (3) come into force on 2nd April 2013.

(2) Regulation 5(b) comes into force on 8th April 2013.

(3) Regulation 10 comes into force 29th April 2013, immediately after the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013<sup>(b)</sup> come into force.

[Reg. 2 makes various amends to regs. 2, 54, Sch. 3, 9 and 10 of S.I. 1987/1967.]

[Reg. 3 substitutes and adds words to para. 6 of Sch. 9 of S.I. 1987/1968.]

[Reg. 4 makes various amends to S.I. 1996/207.]

[Reg. 5 substitutes words in Sch. 3B (2) and inserts Sch. 3B (2) (b) (ii) and (2A) to S.I. 1999/991.]

[Reg. 6 inserts words to reg. 1(2) and Sch. 2 and paras. 20(1)(e) - (f) in Sch. 5 of S.I. 2002/1792.]

[Reg. 7 makes various amends to regs. 2(1), 7, Sch. 3 and 5 of S.I. 2006/213.]

[Reg. 8 makes various amends to regs. 2(1), 7 & Sch. 6 of S.I. 2006/214.]

[Reg. 9 makes various amends to regs. 2(1), 119, Sch. 8 & 9 of S.I. 2008/794.]

[Reg. 10 substitutes words in para. 8(2), (4) (b) & (7) of S.I. 2013/380.]

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

25th February 2013

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

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

(b) S.I. 2013/380.

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

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

Regulations 2(4)(b), 4(11)(b) and 6(3)(b) 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”) and the State Pension Credit Regulations 2002 (S.I. 2002/1792) (“the State Pension Credit Regulations”). In specified circumstances a deduction will be made to the amount of housing costs payable to a claimant where a non-dependant person is living in their home. At present, income-related employment and support allowance at the assessment phase rate paid to a non-dependant person aged under-25 living in the claimant’s home is taken into account when calculating the claimant’s entitlement to housing cost for income support, jobseeker’s allowance and state pension credit, but not employment and support allowance or housing benefit. This amendment ensures that this type of payment will not be taken into account when calculating housing costs for all income-related benefits.

Regulations 2(2), (5) and (6), 4(12) and (13), 6(2) and (5), 7(2), (3)(a), (5) and (6), 8(2), (3)(a) and (4) and 9(2), (5) and (6) amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, 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 Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations”) and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) (“the Employment and Support Allowance Regulations”) to provide that certain payments made by local government, for welfare purposes and/ or to assist with council tax liability, should be disregarded when assessing the claimants income and/ or capital when assessing eligibility for the benefits covered by those regulations.

Regulations 2(3), 4(9) and 9(3) amend the Income Support Regulations, the Jobseeker’s Allowance Regulations and the Employment and Support Allowance Regulations. In general any payment by a relevant member of the claimant’s family (“a Liable Relative Payment”) to a third party will be taken into account when calculating the claimant’s eligibility for an income-related benefit. In other provisions in the Income Support Regulations, Jobseeker’s Allowance Regulations and Employment and Support Allowance Regulations payments made to third parties for rent for which housing benefit is payable is disregarded where it is not a Liable Relative Payment. The amendments provide for the disregard of a Liable Relative Payment for rent in respect of a claimant’s dwelling made directly to a third party and for which housing benefit is payable to ensure consistency with the other provisions in the relevant regulations.

Regulations 2(4)(a), 4(11)(a), 6(3)(a), and 9(4) amend the Income Support Regulations, the Jobseeker’s Allowance Regulations, the State Pension Credit Regulations and the Employment and Support Allowance Regulations. Currently legislation provides that where a person is waiting to move into a new tenancy and there is a delay following an application for a social fund payment, they can receive any income-related social security benefit they would be entitled to at the new address for up to four weeks prior to moving in. From April 2013 local authority payments will replace some elements of social fund payments and these local authority payments are not currently provided for in relevant income-related social security benefit regulations. These regulations amend legislation to disregard the new local welfare payments, to ensure that people who are unable to move into a new home while waiting for help from their local authority with costs arising from the move or with setting up the new home, can still receive income support, jobseeker’s allowance,

state pension credit or employment and support allowance for up to four weeks prior to moving in.

Regulation 3 amends Schedule 9 to the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) to enable payments under a green deal plan, within the meaning of section 1 of the Energy Act 2011, to be deducted from benefit and paid to the person to whom they are due. Regulation 10 makes similar changes to Schedule 6 to the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (S.I. 2013/380) in relation to universal credit.

Regulation 4 amends the Jobseeker's Allowance Regulations as follows.

- Regulation 4(3), (4) and (7) makes amendments to regulations 25, 26 and 70A respectively of the Jobseeker's Allowance Regulations to reflect the new wording of section 8 of the Jobseekers Act 1995 ("the Jobseekers Act"). Section 8 was amended by the Welfare Reform Act 2012 to replace the requirement for claimants to attend for interview, with a requirement to participate in an interview in such manner, time and place as may be specified.
- Regulation 4(5) amends regulation 67(2) of the Jobseekers Allowance Regulations is amended to correct a section reference that was inserted by the Jobseeker's Allowance (Sanctions) (Amendment) Regulations 2012 (S.I. 2012/2568).
- Regulation 4(6) amends regulation 69B. Regulation 69B provided for a sanction to apply to a new claim following disentitlement for failure to comply with the jobseeking conditions in section 1(2)(a) or (c) of the Jobseekers Act. The sanction takes effect from the date of the new claim. Where benefit has been suspended because of a doubt as to compliance with the jobseeking conditions and the claimant re-complies before the suspension ends, a new claim is not required for payment of benefit to resume under the provisions of regulation 3(g) of the Social Security (Claims and Payments) Regulations 1987. The amendment will ensure that the sanction will apply in such cases from the date the suspension ends.
- Regulation 4(8) amends regulation 75 which contains a definition of "employment". The definition in regulation 75(4) applies for section 19 of the Jobseekers Act and the sanctions part of the Jobseeker's Allowance Regulations. The second part of the definition in regulation 75(4) applies for the purposes of regulation 70C of the Jobseeker's Allowance Regulations. Regulation 70C of the Jobseeker's Allowance Regulations provides for the unexpired period of a sanction on a previous award to be applied to a new award and paragraph (4) provides an exception to this where the claimant has been in employment for a total of at least 26 weeks since the date of the sanctionable failure. In such cases, the balance of the sanction will not be applied to the new award. The amendment to the definition of employment in regulation 75(4) is required to make it clear that the employment referred to in regulation 70C(4) means any employed earner's employment, including self-employment, which provides income sufficient to render the claimant ineligible for means tested Jobseeker's Allowance. The existing definition of employment in regulation 75(5) is deleted.
- Regulation 4(10) provides for amendments to exclude certain resources available in respect of children or young persons in the claimant's family or household from being required to be taken into account in determining whether that person will suffer hardship.

Regulation 5 amends the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991). The provision being amended relates to when changes of circumstances relating to income take effect in relation to awards of state pension credit. The first amendment ensures that the change in circumstances takes effect from the first day of the benefit week in which the change occurs (or if not practicable, from the first day of the next following benefit week) where the change

relates to the income of the claimant's partner as well as the claimant's income. The second amendment ensures that where a claimant or their partner receives a disability living allowance (middle or higher rate care component) or attendance allowance again after a period in an NHS hospital or a hospital run by the Defence Council, that change also takes effect from that day. This second amendment is further amended on 8th April 2013 to provide for the introduction of Personal Independence Payments.

Regulations 7(4)(a) amends the Housing Benefit Regulations to provide that people who are entitled to employment and support allowance credits only can also in certain circumstances be entitled to Housing Benefits.

Regulations 7(3)(b) and (c), and 8(3)(b) and (c) amend the Housing Benefit Regulations and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations to make provision for certain prisoners who are required to live away from their home as a condition of their bail and prisoners who have not been sentenced but have been detained, to continue to receive Housing Benefit.

A full impact assessment has not been published for this instrument as it has no impact on the costs of business or the voluntary sector.

