

2009 No. 3228

SOCIAL SECURITY

The Social Security (Miscellaneous Amendments) (No. 5) Regulations 2009

Made - - - - 5th December 2009

Laid before Parliament 11th December 2009

Coming into force in accordance with regulation 1(2) and (3)

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

- sections 123(1)(a), 124(1)(e), 135(1), 136(3), (4) and (5)(a), (b) and (c), 137(1) and (2)(d), and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a),
- sections 4(5), 12(1), (2) and (4)(a), (b) and (c), 13, 35(1) and 36(1), (2) and (4) of, and paragraphs 1(2)(b) and 8A of Schedule 1 to, the Jobseekers Act 1995(b),
- section 115(3), (4) and (7), 166(3) and 167(1) of the Immigration and Asylum Act 1999(c), and
- sections 17(1), (2) and (3)(a), (b) and (c), 24(1), 25(1), (2), (3) and (5) of, and paragraph 6(3)(b) of Schedule 1 to, the Welfare Reform Act 2007(d).

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 5) Regulations 2009.

(2) Subject to paragraph (3), these Regulations come into force on 25th January 2010.

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- (a) 1992 c. 4. Section 124(1)(e) was inserted by paragraph 30(5) of Schedule 2 to the Jobseekers Act 1995 (c. 18) and amended by section 21 of, and Schedule 3 to, the State Pension Credit Act 2002 (c. 16). Section 137(1) is an interpretation provision and is cited because of the meaning ascribed to the word “prescribed”. Section 137(2)(d) was substituted by paragraph 35(3) of Schedule 2 to the Jobseekers Act 1995. Section 175(1) and (4) was amended by section 2 of, and paragraph 29(1), (2) and (4) of Schedule 3 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (“the 1999 Act”).
- (b) 1995 c. 18. Section 13 was amended by paragraph 9(2) and (3) of Schedule 7 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 35(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations” and was amended by paragraph 62 of Schedule 3 to the 1999 Act. Section 36(1) was amended by paragraph 145 of Schedule 7 to the Social Security Act 1998 (c. 14) and paragraph 29(1) and (6) of Schedule 8 to the Welfare Reform and Pensions Act 1999. Section 36(4) was amended by paragraph 63 of Schedule 3 to the 1999 Act. Paragraph 8A was added to Schedule 1 by paragraphs 1 and 16(1) and (2) of Schedule 7 to the Welfare Reform and Pensions Act 1999.
- (c) 1999 c. 33. Section 167 is cited because of the meaning ascribed to the word “prescribed”.
- (d) 2007 c. 5. Section 24(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.
- (e) See sections 172(1) and 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

(3) Regulations 2(1) and 3(2)(c) and (d) and (5)(a), so far as they relate to a particular beneficiary who is not a person falling within regulation 2(2), come into force on the first day of the first benefit week to commence for that beneficiary on or after 25th January 2010.

(4) In these Regulations—

“benefit week”—

- (a) in relation to income support, has the same meaning as in regulation 2(1) of the Income Support Regulations;
- (b) in relation to a jobseeker’s allowance, has the same meaning as in regulation 1(3) of the Jobseeker’s Allowance Regulations;
- (c) in relation to an employment and support allowance, has the same meaning as in regulation 2(1) of the Employment and Support Allowance Regulations; “the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008(a); “the Immigration and Asylum Regulations” means the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000(b); “the Income Support Regulations” means the Income Support (General) Regulations 1987(c); and “the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(d).

[Regulation 2 makes various amendments to S.I. 1987/1967, 1996/207, 2000/636 & 2008/794.]

[Regulation 3 makes various amendments to S.I. 1987/1967.]

Revocation (subject to savings) of provisions specifying that certain persons are to be treated as not engaged in remunerative work

4.—(1) Subject to paragraphs (3) to (7), the following provisions are revoked—

- (a) in the Income Support Regulations—
 - (i) regulation 6(4)(a) and (d) (persons not treated as engaged in remunerative work)(e), and
 - (ii) paragraphs 8 and 9 of Schedule 1B (prescribed categories of persons)(f);
- (b) in the Jobseeker’s Allowance Regulations—
 - (i) regulation 53(c) and (h) (persons treated as not engaged in remunerative work)(g), and
 - (ii) paragraphs 7 and 8 of Schedule A1(h) (categories of members of a joint-claim couple who are not required to satisfy the conditions in section 1(2B)(b));
- (c) regulation 43(2)(a) and (d) of the Employment and Support Allowance Regulations (circumstances under which partners of claimants entitled to an income-related allowance are not to be treated as engaged in remunerative work).

(a) S.I. 2008/794.

(b) S.I. 2000/636.

(c) S.I. 1987/1967.

(d) S.I. 1996/207.

(e) Paragraph (4) was added by regulation 2(b)(iii) of S.I. 2000/681 and amended by paragraph 2 of Schedule 1 to S.I. 2005/2687.

(f) Schedule 1B was inserted by Schedule 1 to S.I. 1996/206. Paragraphs 8 and 9 were amended by regulation 2(d) of S.I. 2000/681.

(g) Paragraph (c) was substituted by paragraph 2 of Schedule 2 to S.I. 2005/2687 and paragraph (h) was amended by Part II of the Schedule to S.I. 1996/1516.

(h) Schedule A1 was inserted by regulation 2(4) of S.I. 2000/1978.

(2) Regulations 22 to 24 (saving provision, circumstances in which regulation 22 ceases to apply and permitted period) of the Income Support (General) Amendment No. 4 Regulations 1991(a) are also revoked.

(3) Paragraphs (4) to (6) apply to a person (“P”) who in respect of a period which includes the day before the date on which these Regulations come into force—

- (a) is entitled to a specified benefit (irrespective of whether P claims the benefit before, on or after that day), and
- (b) falls within one of the provisions referred to in paragraph (1).

(4) Where the specified benefit is income support, regulation 6(4)(a) and (d) of, and paragraphs 8 and 9 of Schedule 1B to, the Income Support Regulations continue to have effect in relation to P’s entitlement to that benefit.

(5) Where the specified benefit is a jobseeker’s allowance, regulation 53(c) and (h) of, and paragraphs 7 and 8 of Schedule A1 to, the Jobseeker’s Allowance Regulations continue to have effect in relation to P’s entitlement to that benefit.

(6) Where the specified benefit is an employment and support allowance, regulation 43(2)(a) and (d) of the Employment and Support Allowance Regulations continue to have effect in relation to P’s entitlement to that benefit.

(7) The provisions saved by paragraphs (4), (5) and (6) continue to have effect in relation to P’s entitlement to the specified benefit until the day on which—

- (a) P first ceases to fall within a provision referred to in paragraph (1), or,
- (b) P first ceases to be entitled to that benefit,

whichever shall first occur.

(8) In this regulation “specified benefit” means income support, a jobseeker’s allowance or an employment and support allowance.

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

5th December 2009

Jim Knight
Minister of State
Department for Work and Pensions

(a) S.I. 1991/1559.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations abolish urgent case payments for income-based jobseeker's allowance, income support and income-related employment and support allowance. Urgent case payments, which take the form of reduced amounts of benefit, are payments which are made to certain sponsored immigrants, asylum seekers or persons whose income is temporarily interrupted, to prevent hardship.

Regulation 2(1)(a), (b) and (d) revokes provisions in the Income Support (General) Regulations 1987 (S.I. 1987/1967) ("the 1987 Regulations"), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) ("the 1996 Regulations"), and the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) ("the 2008 Regulations") to give effect to this abolition. Regulation 2(2), (3) and (4) provide for transitional arrangements and savings for certain beneficiaries who are in receipt of an urgent case payment on the day before the day on which these Regulations come into force. Regulation 3(1), (2), (3) and (4) makes consequential amendments to the 1987 Regulations, the 1996 Regulations and the 2008 Regulations. Regulations 2(1)(c) and 3(5) amend provisions in the Social Security (Immigration and Asylum) Consequential Amendments Regulations 2000 (S.I. 2000/636) concerning the circumstances in which persons who are subject to immigration control are eligible to be awarded income-based jobseeker's allowance, income support and income-related employment and support allowance.

These Regulations also amend the 1987 Regulations, the 1996 Regulations and the 2008 Regulations so as to omit certain provisions specifying that persons are to be treated as not engaged in remunerative work where—

- (a) they are mentally or physically disabled and are earning 75% or less, or are working 75% or less hours, than a person without the same disability would reasonably be expected to earn, or undertake, in the same, or comparable, employment, or
- (b) they are employed, but are living in, or temporarily absent from, a care home, Abbeyfield home or independent hospital and need personal care because of old age, disablement, past or present drug or alcohol dependence or mental disorder, or terminal illness.

If a claimant or their partner is in remunerative work, this usually prevents them from being entitled to income support, a jobseeker's allowance or an employment and support allowance.

Regulation 4(1) and (2) revokes these provisions and a redundant savings provision in the Income Support (General) Amendment No. 4 Regulations 1991 (S.I. 1991/1559), and regulation 4(3) to (8) makes transitional arrangements and savings in relation to claimants who were entitled to income support, a jobseeker's allowance or an employment and support allowance on the day before the Regulations came into force or are later determined to be entitled to one of the benefits for a period including the day before the Regulations came into force, if one of the revoked provisions applies in relation to the claimant's case at the relevant time. Those saving and transitional provisions cease to apply when the claimant first ceases to be entitled to the relevant benefit or first ceases to fall within the particular category of person applicable in his or her case, whichever is the earlier.

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