

1996 No.1511

SOCIAL SECURITY

The Social Security (Back to Work Bonus) (Amendment) Regulations 1996

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| <i>Made</i> | <i>10th June 1996</i> |
| <i>Laid before Parliament</i> | <i>17th June 1996</i> |
| <i>Coming into force</i> | <i>7th October 1996</i> |

This Statutory Instrument, reproduced below in small sanserif print, was in force from 7.10.96 to 3.11.96. It was revoked as from 4.11.96, when the consolidating S.I. 1996/2570 (reproduced at page 11.2101 below) came into force.

This S.I. will remain in this Volume for only a temporary period.]

The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 26, 35(1) and (3) and 36(2) to (5) of the Jobseekers Act 1995(a) and all other powers enabling him in that behalf, by this instrument, which is made before the end of a period of 6 months beginning with the coming into force of the enactments under which it is made(b), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Back to Work Bonus) (Amendment) Regulations 1996 and shall come into force on 7th October 1996 immediately following the coming into force of the Back to Work Bonus Regulations(c).

(2) In these Regulations “the Back to Work Bonus Regulations” means the Social Security (Back to Work Bonus) Regulations 1996.

Definitions

2.—(1) Paragraph (2) of regulation 1 of the Back to Work Bonus Regulations (interpretation) shall be amended in accordance with the following provisions of this regulation.

(2) After the definition of “applicant” the following definition shall be inserted—
“benefit week” –

- (a) where the benefit is income support, has the meaning it has in the Income Support Regulations by virtue of regulation 2(1) of those Regulations;
- (b) where the benefit is a jobseeker’s allowance, has the meaning it has in the Jobseeker’s Allowance Regulations 1996(d) by virtue of regulation 1(3) of those Regulations;” .

(3) In the definition of “earnings” –

- (a) after the word “means” the words “unless the context requires otherwise” shall be inserted;
- (b) for the words “are paid” there shall be substituted the words “are payable”;

(a) 1995 c.18; section 35(1) is an interpretation provision and is cited because of the meaning ascribed to the words “prescribed” and “regulations”.

(b) See section 173(5)(a) of the Social Security Administration Act 1992 (c.5).

(c) S.I. 1996/193.

(d) S.I. 1996/207.

(c) for sub-paragraph (b), there shall be substituted the following sub-paragraph–

“(b) where the qualifying benefit is a jobseeker’s allowance, are net earnings or net profit within the meaning of regulation 1(3) of the Jobseeker’s Allowance Regulations 1996(a) or are treated as earnings in accordance with regulation 105(12) or (13) of the Jobseeker’s Allowance Regulations 1996;”;

(d) after sub-paragraph (b) the following words shall be inserted–

“and for this purpose an amount is payable on the date it is treated as paid for the purpose of regulation 31 of the Income Support Regulations where the qualifying benefit is income support, and for the purpose of regulation 96 of the Jobseeker’s Allowance Regulations 1996 where the qualifying benefit is a jobseeker’s allowance;”.

(4) After the definition of “period of entitlement to a qualifying benefit” there shall be inserted the following definition–

““polygamous marriage” means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy;”.

Period of entitlement to a qualifying benefit

3.—(1) Regulation 2 of the Back to Work Bonus Regulations (period of entitlement to a qualifying benefit) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3), after sub-paragraph (b) there shall be added the following sub-paragraph–

“(c) any period–

(i) in respect of which a person is summoned for jury service and is required to attend court, and

(ii) which immediately follows a day of entitlement to a qualifying benefit and is immediately followed by a day of entitlement to a qualifying benefit.”.

(3) In paragraph (4) after sub-paragraph (a) there shall be added the following sub-paragraphs–

“(aa) where the applicant satisfies the condition in regulation 7(4) or (5) (requirements for a bonus) and claims a bonus, on the last day of entitlement to a qualifying benefit which precedes the day on which he first satisfies that condition;

(ab) where a bonus is paid in anticipation of an applicant satisfying either of the conditions specified in regulation 7(4)(c), or the condition specified in regulation 7(5)(c), but the applicant then fails to satisfy the relevant condition, on the last day taken into account in determining the award of the qualifying benefit in respect of which the bonus is paid;

(ac) where a bonus is paid in anticipation of an applicant or his partner satisfying the work condition, but the work condition is then not satisfied, on the last day taken into account in determining the award of the qualifying benefit in respect of which the bonus is paid;”.

Period of entitlement to a qualifying benefit: further provisions

4. In regulation 3 of the Back to Work Bonus Regulations (period of entitlement to a qualifying benefit: further provisions), in paragraph (6)–

(a) for the words “makes a claim for” there shall be substituted the words “is entitled to”;

(b) after sub-paragraph (b) the following sub-paragraph shall be inserted–

“(bb) in the case of a polygamous marriage, one or more members of the marriage separated; or”.

(a) S.I. 1996/207.

Connecting period

5.—(1) Regulation 4 of the Back to Work Bonus Regulations (connecting period) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)-

- (a) in sub-paragraph (a) for the words “a person ceases to be entitled to a qualifying benefit because” there shall be substituted the words “within 12 weeks of a person ceasing to be entitled to a qualifying benefit”;
- (b) sub-paragraph (b) shall be omitted;
- (c) in sub-paragraph (c) for the words “a person ceases to be entitled to a qualifying benefit because” there shall be substituted the words “within 12 weeks of a person ceasing to be entitled to a qualifying benefit”;
- (d) after sub-paragraph (e) there shall be added the following sub-paragraph-
“(f) a person who is treated under paragraph (4) of regulation 3 as having established a period of entitlement to a qualifying benefit under paragraph (5) of the same regulation satisfies the preceding sub-paragraphs of this paragraph within 12 weeks of the date which applies in his case in accordance with paragraph (6) of regulation 3, and lasts throughout the period the person satisfies the preceding sub-paragraphs of this paragraph.”

(3) In paragraph (3) after the words “(1)(d)” there shall be inserted the words “or (e)”.

Requirement for a bonus

6.—(1) Regulation 7 of the Back to Work Bonus Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) after the words “has served” there shall be inserted the words “,or is treated as having served,”.

(3) In sub-paragraph (2)(d), in heads (1) and (ii) after the word “attained” in both places there shall be inserted the words “the day before”.

(4) In paragraph (4)-

- (a) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraph-
“(a) within 12 weeks of ceasing to be entitled to a qualifying benefit or within 12 weeks of a connecting period ceasing, the applicant commences training;”;
- (b) for sub-paragraph (c) there shall be substituted the following sub-paragraph-
“(c) within 14 days of the day he last attended training-
 - (i) he takes up or returns to or increases the number of hours in which he is engaged in employment, or where his hours of work fluctuate, is engaged on average, for not less than 16 hours per week; or
 - (ii) he takes up employment, or increases his earnings from his existing employment, as a result of which weekly earnings equal or exceed the amount of the training allowance payable to him in the last week of training;”;
- (c) for sub-paragraph (f) there shall be substituted the following sub-paragraph-
“(f) in a case where the qualifying benefit to which a person was entitled-
 - (i) was income support, he satisfied the requirements specified in paragraph (4)(c) before he attained the age of 60;
 - (ii) was a jobseeker’s allowance, he satisfied the requirements specified in paragraph (4)(c) before he attained pensionable age.”

(5) In paragraph (5)-

- (a) in sub-paragraph (a) after the words “a couple” there shall be inserted the words “,or of a polygamous marriage,” and at the end there shall be added the words “and the separation took place before the person attained the age of 60”;

(b) for sub-paragraphs (c) and (d) there shall be substituted the following sub-paragraph-

“(c) within 14 days of the separation-

- (i) he takes up or returns to or increases the number of hours in which he is engaged in employment, or where his hours of work fluctuate, is engaged on average, for not less than 16 hours per week; or
- (ii) he takes up employment or increases his earnings from his existing employment, as a result of which his weekly earnings, had he been entitled to a qualifying benefit on the day of separation, equalled or exceeded the amount that would have been the applicable amount or the age-related amount in his case;”;

(c) in sub-paragraph (e) the words “and (d)” shall be omitted.

(6) For paragraph (7) there shall be substituted the following paragraph-

“(7) Subject to paragraph (8) a person-

(a) who-

- (i) become entitled to, or whose partner becomes entitled to, a qualifying benefit within 12 weeks of the day in respect of which his last previous entitlement to a qualifying benefit ceased; and
- (ii) has not made, and whose partner has not made, a claim for a bonus before the day in respect of which the most recent entitlement to a qualifying benefit first arose,

shall be treated as not satisfying the requirements of paragraph (2)(c) or (3)(d) for the period of 12 weeks following the day in respect of which the last previous entitlement to a qualifying benefit ceased;

(b) who-

- (i) claims, or whose partner claims, a qualifying benefit before the end of the period of 12 weeks immediately following the day on which training ceased; and
- (ii) has not made, and whose partner has not made, a claim for a bonus before the day in respect of which the most recent entitlement to a qualifying benefit arose,

shall be treated as not satisfying the requirements of paragraph (4)(d) for the period of 12 weeks following the day on which training ceased;

(c) who-

- (i) claims, or whose partner claims, a qualifying benefit before the end of the period of 12 weeks following the day on which the separation occurred; and
- (ii) has not made, and whose partner has not made, a claim for a bonus before the day in respect of which the most recent entitlement to a qualifying benefit arose,

shall be treated as not satisfying the requirements of paragraph (5)(f) for the period of 12 weeks following the day on which the separation occurred.”.

(7) After paragraph (7) the following paragraph shall be added-

“(8) Notwithstanding the provisions of paragraph (7) a person shall be able to claim a bonus where he satisfies the work condition or either of the requirements specified in paragraph (4)(c) or the requirements specified in paragraph (5)(c) following the day in respect of which the most recent period of entitlement to a qualifying benefit arose.”.

Amount payable

7.—(1) Regulation 8 of the Back to Work Bonus Regulations (amount payable) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)-

(a) in sub-paragraph (a) the words “which are paid” shall be omitted;

(b) after sub-paragraph (b) the following sub-paragraph shall be added-

- (c) where earnings are payable to the applicant or his partner in a week falling either partly or wholly within the bonus period which includes a part-week of entitlement to a qualifying benefit in accordance with Part VII of the Income Support Regulations or Part XI of the Jobseeker's Allowance Regulations which falls within the bonus period, half the amount calculated by applying the formula-

$$\frac{G \times N}{7}$$

where-

G is the earnings of the applicant and his partner, in the relevant week which are not disregarded in accordance with the provisions mentioned in sub-paragraph (a) or (b); and

N is the number of days in the part-week.

(3) In paragraph (2) for the words "paid in" there shall be substituted the word "for", and for the words "has an applicable amount of Nil" there shall be substituted the words "no benefit is payable or the applicable amount is Nil".

(4) After paragraph (12), there shall be added the following paragraph-

"(13) In this regulation "part-week" means an entitlement to a qualifying benefit in respect of any period of less than a week, and for the word "week" in each place where it occurs there shall be substituted the words "benefit week" .

Secretary of State to issue estimates

8. In regulation 9 of the Back to Work Bonus Regulations (Secretary of State to issue estimates) after the words "has served" there shall be inserted the words ", or is treated as having served," .

Couples who separate

9.—(1) Regulation 10 of the Back to Work Bonus Regulations (couples who separate) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1), after the words "qualifying benefit" where they first occur there shall be inserted the words "other than a contribution-based jobseeker's allowance" and after the words "the other member of the couple," where they first occur, there shall be inserted the words "in a case where he is entitled to qualifying benefit within 12 weeks of the date of separation," .

(3) After paragraph (1) the following paragraph shall be inserted-

"(1A) Where one or more members of a polygamous marriage separate and at the date of separation any one of them has days of entitlement to a qualifying benefit other than a contribution-based jobseeker's allowance which count towards the waiting period, those days of entitlement which count, up to a maximum of 91 days, shall count towards a waiting period of any person who is or was a member of that marriage, where he is entitled to a qualifying benefit within 12 weeks of the date of separation, and shall be treated as days on which any person who is or was a member of that marriage was entitled to a qualifying benefit." .

(4) In paragraph (2)-

- (a) after the words "paragraph (1)" in the three places where they occur there shall be inserted the words "or (1A)";
- (b) after the words "regulation 6(2)" there shall be inserted the words "when he makes a claim for a qualifying benefit for the couple".

Couples who separate where the partner has earnings

10.—(1) Regulation 11 of the Back to Work Bonus Regulations (couples who separate where the partner has earnings) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph (3) there shall be substituted the following paragraph-

“(3) The amount which shall accrue to the separated partner in accordance with paragraph (2) (referred to in this regulation as the “accrued bonus”) shall be the aggregate of the weekly amounts determined in accordance with the formula-

$$\frac{A \times C}{B}$$

where-

A is the earnings of the separated partner in the benefit week in question in respect of which he has earnings in that part of the bonus period which falls before the date of separation;

B is the total of the earnings of both members of the couple, or in the case of a polygamous marriage, all the members of the marriage, in that week in that part of the bonus period which falls before the date of separation; and

C is the amount of the bonus calculated in respect of that week which would have been payable had it been payable on the day before the couple, or some or all of the members of a polygamous marriage, separated in respect of the earnings of both, or, as the case may be, all of them.”;

(3) Paragraphs (5), (6) and (7) shall be omitted.

Couples who separate where the separated partner has attained the age of 60

11.—(1) Regulation 12 of the Back to Work Bonus Regulations (couples who separate where the separated partner has attained the age of 60) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (2), at the end there shall be inserted the following words “, or in the case of a polygamous marriage, the other members of the marriage.”

(3) In sub-paragraph (d) of paragraph (6) after the words “the couple’s earnings” there shall be inserted the words “, or in the case of a polygamous marriage, the earnings of the members of that marriage”.

Single persons who become couples: further provisions

12. In regulation 14 of the Back to Work Bonus Regulations (single persons who become couples: further provisions)-

(a) in paragraph (1)(b) for the words “the claim” there shall be substituted the words “a claim for a qualifying benefit, other than a contribution-based jobseeker’s allowance.”; and

(b) after paragraph (1) there shall be inserted the following paragraph-

“(1A) The number of days of the person mentioned in paragraph (1)(a) has served of the waiting period referred to in regulation 6 shall be deducted from the number of days of the waiting period the other member of the couple is required to serve.”

Single claimants who are couples

13.—(1) Regulation 15 of the Back to Work Bonus Regulations (single claimants who are couples) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “the following paragraphs.” there shall be substituted the words “paragraphs (2) to (4).”.

(3) After paragraph (1) the following paragraph shall be inserted-

“(1A) Where-

- (a) three or more persons who are living together are members of a polygamous marriage;
- (b) two or more of those persons were in receipt of a qualifying benefit during the whole or part of the time they lived together and were members of a polygamous marriage; and
- (c) had they declared that they were members of a polygamous marriage, either-
 - (i) no qualifying benefit would have been payable to them; or
 - (ii) a qualifying benefit would have been payable to only one or some of the members of the polygamous marriage,

the provisions of these Regulations shall also have effect subject to the following paragraphs.

(4) In paragraphs (3) or (4) any reference to a couple shall include a reference to the members of a polygamous marriage.

(5) In paragraph (2) for the word “week” in both places where it occurs there shall be substituted the words “benefit week”.

Couples both of whom are entitled to a qualifying benefit

14.—(1) Regulation 16 of the Back to Work Bonus Regulations (couples both of whom are entitled to a qualifying benefit) shall be amended in accordance with the following provisions of this regulation.

(2) After sub-paragraph (1)(b) the following sub-paragraphs shall be inserted-

“or;

- (c) one member of a polygamous marriage is entitled to a contribution-based jobseeker’s allowance; and
- (d) another member of the polygamous marriage is entitled to an income-based jobseeker’s allowance.”

(3) In sub-paragraph (2)(c) at the end there shall be inserted the following words-

“, or had a period of entitlement to a qualifying benefit within 12 weeks of the day after they became a couple;”.

Trainees

15. Regulation 18 (trainees) is hereby revoked.

Death

16.—(1) Regulation 19 of the Back to Work Bonus Regulations shall be amended in accordance with the following provisions of this Regulation.

(2) In paragraph (1)-

- (a) the words “this regulation applies” shall be omitted; and
- (b) after sub-paragraph (d) there shall be added the words “paragraphs (2), (5) and (6) shall apply.”

(3) In paragraph (3) for the words “the person” there shall be substituted the words “a person”.

Trade disputes

17.—(1) Regulation 20 of the Back to Work Bonus Regulations (trade disputes) shall be amended in accordance with the following provisions of this regulation.

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(2) In paragraph (2) for the words “earned by”, there shall be substituted the word “of”.

(3) In paragraph (4)(b) after the words “the benefit” there shall be inserted the words “or his partner”.

(4) In paragraph (4) for the words “earned by that person” there shall be substituted the words “of that person or his partner, as the case may be.”

(5) In paragraph (6)-

(a) after the words “may be,” there shall be inserted the words “the partner or the person claiming the benefit referred to in”;

(b) the words “and undertakes work for less than 24 hours per week” shall be omitted;

(c) for the word “week” in both places where it occurs there shall be substituted the words “benefit week”.

(6) In paragraph (8) for the words “Where the partner” there shall be substituted the words “Where the person claiming the benefit referred to in paragraph (2)(a) or (4)(a) or his partner, as the case may be”.

Share fishermen

18. In regulation 21 of the Back to Work Bonus Regulations (share fishermen)-

(a) for the word “paid” there shall be substituted the word “payable”;

(b) for the word “week” in both places where it occurs there shall be substituted the words “benefit week”.

Claiming a bonus

19.—(1) Regulation 23 of the Back to Work Bonus Regulations (claiming a bonus) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (1)(a) at the beginning there shall be inserted the words “Subject to paragraph (7)”.

(3) In sub-paragraph (1)(b)(i) for the words “a person to whom regulation 18 (trainees) applies” there shall be substituted the words “a person who satisfies the 3rd condition in regulation 7”.

(4) After paragraph (5) there shall be added the following paragraphs-

“(6) In the case of a person who has served or is treated as having served a waiting period in accordance with regulation 6(1) (waiting period) and is a member of a couple in respect of whom income support or an income-based jobseeker’s allowance is payable, the claim for the bonus shall be made by the member of the couple entitled to the benefit.

(7) A person who has an employment to take up, or whose earnings from or the hours of his employment will increase, within 14 days of completing his training or the date of separation and that employment satisfies the requirements of regulation 7(4)(c) or (5)(c) may make a claim for a bonus-

(a) in the case of a person who satisfies all the other requirements of the 3rd condition specified in regulation 7, up to 14 days before the day following the last day of attendance on the course;

(b) in the case of a person who satisfies all the other conditions of the 4th condition specified in regulation 7, up to 13 days before the day on which he complies with the condition, but not before the day after the separation.”.

Payment of bonus

20. In regulation 25 of the Back to Work Bonus Regulations (payment of bonus) for the word “paid” there shall be substituted the word “payable”.

Payment of bonus: further provisions

21. After regulation 25 of the Back to Work Bonus Regulations (payment of bonus) there shall be inserted the following regulations-

“Award of bonus

25A.—(1) Where the adjudication officer is satisfied that a person satisfies, or will satisfy, the work condition or either of the requirements specified in regulation 7(4)(c) or the requirements specified in regulation 7(5)(c) he may award a bonus in advance of the condition or requirement being met.

(2) If, having been awarded a bonus in advance in accordance with paragraph (1), the person fails to satisfy the conditions, he shall not be entitled to any further bonus until he has served a further waiting period in accordance with regulation 6 (waiting period).

Payments on death

25B.—(1) Where a person satisfies the requirements for entitlement to a bonus other than the need to make a claim, but dies within 12 weeks of the last day of entitlement to a qualifying benefit, the Secretary of State may appoint such person as he may think fit to claim a bonus in place of the deceased person.

(2) Where the conditions specified in paragraph (3) are satisfied, a claim may be made by the person appointed for a back to work bonus to which the deceased person would have been entitled if he had claimed it in accordance with regulation 23 (claiming a bonus).

(3) Subject to the following provisions of this regulation, the following conditions are specified for the purposes of paragraph (2)-

- (a) the application to the Secretary of State to be appointed a fit person to make a claim shall be made within 6 months of the date of death;
- (b) the claim shall be made in writing within 6 months of the date the appointment was made.

(4) Subject to paragraphs (5) and (6), the Secretary of State may, in exceptional circumstances, extend the period for making an application or a claim to such longer period as he considers appropriate in the particular case.

(5) Where the period is extended in accordance with paragraph (4), the period specified in paragraph (3)(a) or (b) shall be shortened by a corresponding period.

(6) The Secretary of State shall not extend the period of claim in accordance with paragraph (4) for more than 12 months from the date of death, but in calculating that period any period between the date when an application for a person to be appointed to make a claim is made and the date when the Secretary of State makes the appointment shall be disregarded.

(7) A claim made in accordance with paragraph (2) shall be treated, for the purposes of these regulations, as if made on the date of the deceased's death.:

Transitional matters

22.—(1) Regulation 26 of the Back to Work Bonus Regulations (transitional matters) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (2)(b) for the words “any earnings received by” there shall be substituted the words “any earnings of”.

(3) In sub-paragraph (2)(b) after the word “partner” there shall be inserted the words “calculated in accordance with those rules”.

Minor amendments

23. The provisions of the Back to Work Bonus Regulations specified in column (1) of the Schedule to these Regulations shall be amended to the extent specified in column (2) of that Schedule.

Signed by authority of the Secretary of State for Social Security.

10th June 1996

Roger Evans
Parliamentary Under-Secretary of State,
Department of Social Security

SCHEDULE

Regulation 23

Minor Amendments to the Back to Work Bonus Regulations

| Column (1) Regulation | Column (2) Amendment |
|--------------------------|--|
| 4(2) | For the words "(2)(e)" there shall be substituted the words "(1)(e)". |
| 7(2)(d) | For the word "person" there shall be substituted the word "applicant". |
| 8(3) | For the word "person" there shall be substituted the word "applicant". |
| 12(1)(c) | At the end there shall be added the word "and". |
| 12(2) | For the words "paragraph 7" there shall be substituted the words "paragraph (7)". |
| 12(3) | For the words "or (5)" there shall be substituted the words "or (6)" and after the words "paragraph (3)" there shall be inserted the words "and in accordance with paragraph (4)". |
| 20(3) | For the words "paragraph (1)" there shall be substituted the words "paragraph (2)" and for the words "subsection (1)" there shall be substituted the words "subsection (1)" there shall be substituted the words "subsection (4)". |
| 23(5) | For the words "A person who claims a bonus" there shall be substituted the words "An applicant". |
| 26(3) | For the words "(waiting days)" there shall be substituted the words "(waiting period)". |

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

The Regulations contained in this instrument are made by virtue of provisions in the Jobseekers Act 1995 (c.18). This instrument is made before the end of the period of 6 months beginning with the coming into force of those provisions; the regulations in it are therefore exempted from the requirement in section 172(1) of the Social Security Administration Act 1992 (c.5) to refer proposals to make these Regulations to the Social Security Advisory Committee and are made without reference to that Committee.

These Regulations contain amendments to the Social Security (Back to Work Bonus) Regulations 1996 (S.I. 1996/193).

In particular, regulation 20 introduces two new regulations. Regulation 25A provides that, in certain circumstances, a back to work bonus may be claimed, and awarded, in advance of the requirements for a bonus, including the work condition, being satisfied. Regulation 25B provides that where a person satisfied the requirements for a back to work bonus, but died before claiming it, the bonus may be claimed by someone else.

Regulation 23 introduces a Schedule to the Regulations containing minor amendments.

These Regulations do not impose a charge on businesses.