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STATUTORY INSTRUMENTS

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**2017 No. 1187**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous  
Amendments No. 5) Regulations 2017**

*Made - - - - 30th November 2017*

*Laid before Parliament 1st December 2017*

*Coming into force in accordance with regulation 1(2)*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 123(1)(a) and (d), 124(1)(e), 130A(2), 135(1), 136(3), (4) and (5)(b), 136A(3), 137(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(1), sections 5(1)(j), 189(1) and (4) and 191 of the Social Security Administration Act 1992(2), sections 12(1) and (4)(b), 35(1) and 36(2) of the Jobseekers Act 1995(3), sections 10(6), 79(1) and (4) and 84 of the Social Security Act 1998(4), paragraphs 4(6), 20(1) and 23(1) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(5), sections 2(3)(b), 12(2) and (3), 15(3) and (6)(b) and 17(1) of the State Pension Credit Act 2002(6) and sections 17(1) and (3)(b), 24 and 25(2) and (3) of the Welfare Reform Act 2007(7).

The Social Security Advisory Committee has agreed that the proposals in respect of these Regulations should not be referred to it(8).

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- (1) 1992 c.4. Section 123(1) was amended by Schedule 9 to the Local Government Finance Act 1992 (c.14) and S.I. 2003/962. Section 124 was amended by paragraph 30 of Schedule 2 and paragraph 1 of Schedule 3 to the Jobseekers Act 1995 (c.18), paragraph 28 of Schedule 8 to the Welfare Reform and Pensions Act 1999 (c.30), paragraph 2 of Schedule 2 to the State Pension Credit Act 2002 (c.16), paragraph 42 of Schedule 24 to the Civil Partnership Act 2004 (c.33), section 3 of, and paragraph 9 of Schedule 3 and paragraph 1 of Schedule 8 to, the Welfare Reform Act 2007 (c.5) and paragraph 1 of Schedule 14 to the Welfare Reform Act 2012 (c.5). Section 130A was added by section 30 of the Welfare Reform Act 2007 (c.5). Section 136A was added by paragraph 3 of Schedule 2 to the State Pension Credit Act 2002. Section 137(1) is an interpretation provision and is cited for the meaning of “prescribed”. Section 175 was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and paragraph 1 of Schedule 6 to the Tax Credits Act 2002 (c.21).
- (2) 1992 c.5. Section 5(1)(j) was amended by section 98(5) of the Welfare Reform Act 2012. Section 189 was amended by paragraph 57 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999, paragraph 1 of Schedule 6 to the Tax Credits Act 2002 and S.I. 2013/252. Section 191 is an interpretation provision and is cited for the meaning of “prescribed”.
- (3) 1995 c.18. Section 35 is an interpretation provision and is cited for the meaning of “prescribed”.
- (4) 1998 c.14 (“the 1998 Act”). Section 79 was amended by S.I. 2008/2833. Section 84 is an interpretation provision and is cited for the meaning of “prescribed”.
- (5) 2000 c.19 (“the 2000 Act”). Paragraph 20 of Schedule 7 was amended by S.I. 2008/2833. Paragraph 23 of Schedule 7 is an interpretation provision and is cited for the meaning of “prescribed”. Section 79(4) of the 1998 Act is applied to powers to make Regulations under the 2000 Act by paragraph 20(3) of Schedule 7 to the 2000 Act.
- (6) 2002 c.16. Section 17(1) is an interpretation provision and is cited for the meaning of “prescribed” and “regulations”.
- (7) 2007 c.5. Section 24 is an interpretation provisions and is cited for the meaning of “prescribed”. Section 25 was amended by section 51 of the Welfare Reform Act 2012 (c.5).
- (8) See section 173(1)(b) of the Social Security Administration Act 1992.

In accordance with section 176(1) of the Social Security Administration Act 1992<sup>(9)</sup>, the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

### **Citation and commencement**

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments No. 5) Regulations 2017.

(2) These Regulations come into force as follows—

(a) the following provisions, on 21st December 2017—

(i) this regulation;

(ii) regulation 2(2), and regulation 2(1) in so far as it relates to that provision;

(iii) regulation 5(3), and regulation 5(1) in so far as it relates to that provision;

(iv) regulation 7(2) and (6), and regulation 7(1) in so far as it relates to those provisions;

(b) all other provisions, on 6th December 2018.

### **Amendment of the Income Support (General) Regulations 1987**

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

(2) After paragraph 7 of Schedule 1B (prescribed categories of person)<sup>(11)</sup>, insert—

**“Certain persons in receipt of the daily living component of personal independence payment**

**7A.** A person who is in receipt of the daily living component of personal independence payment at the enhanced rate but only where, immediately before receiving that benefit, the person was entitled to and in receipt of income support because he or she was treated as incapable of work under regulation 10(2)(a)(i) of the Social Security (Incapacity for Work) (General) Regulations 1995<sup>(12)</sup>.”

(3) In paragraph 17(c) of Schedule 9 (sums to be disregarded in the calculation of income other than earnings: annuities purchased with a loan secured on a dwelling)<sup>(13)</sup>, after “the age of 65” insert “or, if it was higher at that time, pensionable age”.

### **Amendment of the Jobseeker’s Allowance Regulations 1996**

3. In paragraph 18(c) of Schedule 7 to the Jobseeker’s Allowance Regulations 1996 (sums to be disregarded in the calculation of income other than earnings: annuities purchased with a loan secured on a dwelling)<sup>(14)</sup>, after “the age of 65” insert “or, if it was higher at that time, pensionable age”.

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(9) Section 176 was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c.14), paragraph 3 of Schedule 13 to the Housing Act 1996 (c.52), section 69 of the 2000 Act and paragraph 1 of Schedule 14 to the Welfare Reform Act 2012.

(10) S.I. 1987/1967.

(11) Schedule 1B was inserted by S.I. 1996/206 and amended by S.I. 1996/206, 2009/3152 and 2010/2429.

(12) S.I. 1995/311. Amended by S.I. 1995/987 and 1999/3109. There are other amending instruments but none is relevant.

(13) Amended by S.I. 1994/2139.

(14) S.I. 1996/207.

#### **Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999**

4. Omit regulation 7(17B)(b) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (date from which superseded decisions take effect)(15).

#### **Amendment of the State Pension Credit Regulations 2002**

5.—(1) The State Pension Credit Regulations 2002(16) are amended as follows.

(2) In paragraph 14(7) of Schedule II (non-dependant deductions, persons residing with the claimant)(17)—

- (a) in sub-paragraph (c), omit the words beginning with “during a period of study” to the end;
- (b) omit sub-paragraph (cc).

(3) In paragraph 1 of Schedule III (amendment in respect of entitlement for polygamous marriages)(18)—

(a) in sub-paragraph (2), in subsection (1)(b) of the provision that applies instead of section 3(1)—

- (i) after “of that section”, insert “has attained pensionable age before 6 April 2016 and”;  
and
- (ii) after “age of 65”, insert “(before, on or after that date)”;

(b) after sub-paragraph (7) insert—

“(7A) The following provision shall apply instead of regulation 7A (limitation of savings credit for certain mixed-age couples)—

“7A.—(1) This regulation applies if, taking the claimant to be the person in question for the purposes of section 12 (polygamous marriages),—

- (a) the case is one to which that section applies; and
- (b) at least one of the persons falling within subsection (1)(c) of that section had attained pensionable age before 6 April 2016 and at least one of those persons had not.

(2) Where this regulation applies, the claimant is not entitled to a savings credit unless the claimant—

- (a) has been awarded a savings credit with effect from a day before 6 April 2016 and was entitled to a savings credit immediately before that date; and
- (b) remained entitled to a savings credit at all times since the beginning of 6 April 2016.”.

(4) In paragraph 10(b) of Schedule IV (amounts to be disregarded in the calculation of income other than earnings: annuities purchased with a loan secured on a dwelling), after “the age of 65” insert “or, if it was higher at that time, pensionable age”.

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(15) S.I. 1999/991. Paragraph (17B) was substituted by S.I. 2004/647 and amended by S.I. 2004/2327.

(16) S.I. 2002/1792.

(17) Relevant amending instrument is S.I. 2002/3197.

(18) Relevant amending instrument is S.I. 2002/3019.

### **Amendment of the Housing Benefit Regulations 2006**

6. In regulation 74(7) of the Housing Benefit Regulations 2006 (exceptions from deductions in respect of non-dependants)(**19**) for “the age of 65” substitute “pensionable age”.

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

7.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(**20**) are amended as follows.

(2) In regulation 31(11)(ba) (treatment of childcare charges: other member of the couple incapacitated)(**21**) for the words beginning with “claimant’s” and ending with “would be” substitute “other member of the couple would be a member of the support group or”.

(3) In regulation 54 (continuing payments where state pension credit claimed)(**22**)—

- (a) in paragraph (1)(c)(i) omit the words beginning with “or, if” and ending with “65”;
- (b) in paragraph (2)(a)(ii) omit “or the age of 65”.

(4) In regulation 55(7) (exceptions from deductions in respect of non-dependants)(**23**)—

- (a) omit sub-paragraphs (c) and (d);
- (b) in sub-paragraph (e), omit the words beginning with “and” and ending with “65”.

(5) Omit regulation 59(10)(a) (date on which change of circumstances is to have effect)(**24**).

(6) In regulation 69(6)(c) (duty to notify changes of circumstances)(**25**), after “weeks” insert “or where the absence is from Great Britain, which exceeds or is likely to exceed 4 weeks”.

(7) In the table in paragraph 1 of Schedule 3 (personal allowances)(**26**)—

(a) in entry (1)—

- (i) omit paragraph (a) in both columns;
- (ii) in paragraph (b) in column (1), for “aged 65 or over” substitute “who has attained pensionable age”;

(b) in entry (2)—

- (i) omit paragraph (a) in both columns;
- (ii) in paragraph (b) in column (1), for “aged 65 or over” substitute “who have attained pensionable age”;

(c) omit entry (3);

(d) in entry (4), for “are aged 65 or over” substitute “have attained pensionable age”.

(8) In paragraph 11(b) of Schedule 5 (amounts to be disregarded in the calculation of income other than earnings: annuities purchased with a loan secured on a dwelling), after “the age of 65” insert “or, if it was higher at that time, pensionable age”.

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(19) [S.I. 2006/213](#).

(20) Sub-paragraph (ba) was inserted by [S.I. 2008/1082](#) and amended by [S.I. 2006/214](#).

(21) Relevant amending instruments are [S.I. 2008/1082](#), [2013/630](#) and [2017/204](#).

(22) Relevant amending instruments is [S.I. 2008/1082](#).

(23) Regulation 55 was substituted by [S.I. 2007/2869](#) and amended by [S.I. 2208/2767](#) and [S.I. 2013/665](#). There are other amending instruments but none is relevant.

(24) Relevant amending instrument is [S.I. 2006/2378](#).

(25) Relevant amending instrument is [S.I. 2005/2502](#).

(26) Paragraph (1) was substituted by [S.I. 2014/516](#) and [S.I. 2017/260](#).

### **Amendment of the Employment and Support Allowance Regulations 2008**

8. In paragraph 18(c) of Schedule 8 to the Employment and Support Allowance Regulations 2008 (sums to be disregarded in the calculation of income other than earnings: annuities purchased with a loan secured on a dwelling)(27), after “the age of 65” insert “or, if it was higher at that time, pensionable age”.

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

30th November 2017

*Caroline Dinéage*  
Parliamentary Under Secretary of State  
Department for Work and Pensions

## EXPLANATORY NOTE

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

These Regulations amend the following social security statutory instruments:

- The Income Support (General) Regulations 1987 (S.I. 1987/1967);
- The Jobseeker’s Allowance Regulations 1996 (S.I. 1996/207);
- The Social Security and Child Support (Decisions and Appeals) Regulations 1999 (S.I. 1999/991);
- The State Pension Credit Regulations 2002 (S.I. 2002/1792);
- The Housing Benefit Regulations 2006 (S.I. 2006/213);
- The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214);
- The Employment and Support Allowance Regulations 2008 (S.I. 2008/794).

Regulation 2(2) amends the Income Support Regulations 1987 to insert a new paragraph 7A into Schedule 1B. This paragraph provides that persons in receipt of the daily living component of personal independence payment at the enhanced rate are a prescribed category of person for the purposes of those Regulations, but only where, immediately before receiving that benefit, the person was entitled to and in receipt of income support because he or she was treated as incapable of work under the Social Security (Incapacity for Work) (General) Regulations 1995 (S.I. 1995/311).

Regulations 2(3), 3, 5(4), 7(8) and 8 amend the Income Support (General) Regulations 1987, the Jobseeker’s Allowance Regulations 1996, the State Pension Credit Regulations 2002, the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 and the Employment and Support Allowance Regulations 2008 to provide that income received under an annuity purchased with a loan secured on a dwelling may be disregarded where, at the time the loan was made to the person, the person was aged 65 or, if it was higher at that time, pensionable age.

Regulation 4 amends the Social Security and Child Support (Decisions and Appeals) Regulations 1999 to remove reference to the claimant or their partner being aged 65 or over.

Regulations 5(2), 7(4) amend the State Pension Credit Regulations 2002 and the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 respectively to remove the requirement that exclusions from non-dependant deductions relating to non-dependant students be subject to certain conditions since, with the rising pensionable age, it is no longer relevant to make it a condition that the claimant or partner has attained the age of 65. Regulation 6 makes a similar amendment to the Housing Benefit Regulations 2006 but amends the condition so that the claimant or the claimant’s partner must be of pensionable age.

Regulation 5(3)(a) amends the State Pension Credit Regulations 2002 to provide that in order to be entitled to savings credit, one or more of the parties to a polygamous marriage must have attained pensionable age before 6 April 2016.

Regulation 5(3)(b) amends the State Pension Credit Regulations 2002 to provide a version of regulation 7A (limitations of savings credit) that will apply in relation to polygamous marriages.

Regulation 7(3), (5) and (7) amends the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 to align the Regulations with the rising pensionable age.

Regulation 7(6) amends the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 to introduce a requirement that persons likely to be absent from Great Britain for at least 4 weeks must notify the Secretary of State.

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