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STATUTORY INSTRUMENTS

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**2019 No. 1314**

**SOCIAL SECURITY**

**The Social Security (Capital Disregards)  
(Amendment) Regulations 2019**

<i>Made</i>	- - - -	<i>3rd October 2019</i>
<i>Laid before Parliament</i>		<i>8th October 2019</i>
<i>Coming into force</i>	- -	<i>31st October 2019</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(a) and (d), 136(3) and (5)(b), 136A(3), 137(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(1), sections 12(1) and (4) (b), 35(1) and 36(2) of the Jobseekers Act 1995(2), sections 15(3) and (6)(b) and 17(1) of the State Pension Credit Act 2002(3), sections 17(1) and (3)(b), 24(1) and 25(3) of the Welfare Reform Act 2007(4) and section 42(1), (2) and (3)(a) of, and paragraph 4(1) and (3)(a) of Schedule 1 and paragraph 1(1) of Schedule 6 to, the Welfare Reform Act 2012(5).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(6), the Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it.

In accordance with section 176(1)(a) of the Social Security Administration Act 1992, the Secretary of State has consulted with organisations appearing to her to be representative of the authorities concerned in respect of regulations 5 and 6. Those organisations have agreed that consultation in respect of those regulations need not be undertaken.

**Citation and commencement**

**1.** These Regulations may be cited as the Social Security (Capital Disregards) (Amendment) Regulations 2019 and come into force on 31st October 2019.

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- (1) 1992 c. 4. Section 136A was inserted by paragraph 3 of Schedule 2 to the State Pension Act 2002 (c. 16). Subsection (3) of section 175 is applied to provisions of the State Pension Credit Act 2002 by section 19(1) of that Act. Section 137(1) is cited for the definition of “prescribed”.
- (2) 1995 c. 18. Section 35(1) is cited for the definitions of “prescribed” and “regulations”.
- (3) 2002 c. 16. Section 17(1) is cited for the definitions of “prescribed” and “regulations”.
- (4) 2007 c. 5. Section 24(1) is cited for the definitions of “prescribed” and “regulations”.
- (5) 2012 c. 5.
- (6) 1992 c. 5.

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

- 2.—(1) The Income Support (General) Regulations 1987(7) are amended as follows.
- (2) In Schedule 10 (capital to be disregarded), in paragraph 7(1)—
- (a) in paragraph (a) for “8 or 9” substitute “8, 9 or 76A”;
  - (b) after paragraph (f) add—
    - “(g) maternity allowance under section 35 of the Contributions and Benefits Act(8) (state maternity allowance for employed or self-employed earner),”.

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

- 3.—(1) The Jobseeker’s Allowance Regulations 1996(9) are amended as follows.
- (2) In Schedule 8 (capital to be disregarded), in paragraph 12(1)—
- (a) in paragraph (a) for “9 or 10” substitute “9, 10 or 72A”;
  - (b) after paragraph (e) add—
    - “(f) maternity allowance under section 35 of the Benefits Act(10) (state maternity allowance for employed or self-employed earner),”.

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

- 4.—(1) The State Pension Credit Regulations 2002(11) are amended as follows.
- (2) In Schedule 5 (capital disregarded for the purpose of calculating income), at the end of paragraph 20(2) add—
- “(t) maternity allowance under section 35 of the 1992 Act(12) (state maternity allowance for employed or self-employed earner).”.

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

- 5.—(1) The Housing Benefit Regulations 2006(13) are amended as follows.
- (2) In Schedule 6 (capital to be disregarded), in paragraph 9(1) after paragraph (h) add—
- “(i) maternity allowance under section 35 of the Act(14) (state maternity allowance for employed or self-employed earner),”.

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

- 6.—(1) The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(15) are amended as follows.
- (2) In Schedule 6 (capital to be disregarded), at the end of paragraph 21(2) add—

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(7) S.I. 1987/1967; relevant amending instruments are S.I. 1991/2742 and 2002/2380.

(8) Section 35(1) was amended by the Welfare Reform and Pensions Act 1999 (c. 30) section 53(1), the Employment Act 2002 (c. 22) section 53 and paragraphs 2, 4(1) and (2) of Schedule 7, the Welfare Reform Act 2012 (c. 5) section 63(1), (2)(a) and S.I. 2014/606. See regulation 2(1) of S.I. 1987/1967 for the definition of “the Contributions and Benefits Act”.

(9) S.I. 1996/207; the relevant amending instrument is S.I. 2002/2380.

(10) See section 35(1) of the Jobseekers Act 1995 for the definition of “the Benefits Act”.

(11) S.I. 2002/1792; relevant amending instruments are S.I. 2002/3019, 2003/2274, 2008/1554, 3157, 2013/388, 591, 630, 2017/422, 2018/1138 and 2019/1060.

(12) See regulation 1(2) of S.I. 2002/1792 for the definition of “the 1992 Act”.

(13) S.I. 2006/213; relevant amending instruments are S.I. 2005/2502, 2008/698, 1082, 2013/630 and 2017/422.

(14) See regulation 2(1) of S.I. 2006/213 for the definition of “the Act”.

(15) S.I. 2006/214; relevant amending instruments are S.I. 2005/2502, 2008/1082, 2013/388, 443, 591, 2017/422, 2018/1138 and 2019/1060.

“(s) maternity allowance under section 35 of the Act(16) (state maternity allowance for employed or self-employed earner).”.

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

7.—(1) The Employment and Support Allowance Regulations 2008(17) are amended as follows.

(2) In Schedule 9 (capital to be disregarded), in paragraph 11(1)—

(a) in paragraph (a) for “10 or 11” substitute “10, 11 or 66”;

(b) after paragraph (d) add—

“(e) maternity allowance under section 35 of the Contributions and Benefits Act(18) (state maternity allowance for employed or self-employed earner).”.

### **Amendment of the Universal Credit Regulations 2013**

8.—(1) The Universal Credit Regulations 2013(19) are amended as follows.

(2) In Schedule 10 (capital to be disregarded) in paragraph 18(2) after “United Kingdom” add—

“and includes armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011(20).”.

### **Amendment of the Universal Credit (Transitional Provisions) Regulations 2014**

9.—(1) The Universal Credit (Transitional Provisions) Regulations 2014(21) are amended as follows.

(2) In regulation 10A (arrears of benefit disregarded as capital)—

(a) in paragraph (1)—

(i) after “of benefit” in both places, insert “or armed forces independence payment”;

(ii) in sub-paragraph (d) after “to benefit” insert “or armed forces independence payment”;

(b) after paragraph (2) add—

“(3) “Armed forces independence payment” means armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011.”.

(3) After regulation 10A insert—

#### **“Arrears of maternity allowance disregarded as capital**

**10B.**—(1) This regulation applies in relation to the calculation of an award of universal credit where—

(a) the conditions set out in regulation 10A(1)(a) to (d) are met; and

(b) the claimant has received a payment of arrears of maternity allowance, or a payment made to compensate for arrears due to the non-payment of maternity allowance, of under £5,000.

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(16) See regulation 2(1) of S.I. 2006/214 for the definition of “the Act”.

(17) S.I. 2008/794; there are amendments to this Schedule but none is relevant.

(18) See section 65 of the Welfare Reform Act 2007 for the definition of “Contributions and Benefits Act”.

(19) S.I. 2013/376; relevant amending instruments are S.I. 2017/422, 901 and 2018/1138.

(20) S.I. 2011/517; the relevant amending instrument is S.I. 2013/436.

(21) S.I. 2014/1230; the relevant amending instrument is S.I. 2018/932.

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

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(2) Where this regulation applies, notwithstanding anything in the Universal Credit Regulations, the payment is to be disregarded from the calculation of the claimant's capital for 12 months from the date of receipt of the payment.

(3) "Maternity allowance" means a maternity allowance under section 35 of the Social Security Contributions and Benefits Act 1992 (state maternity allowance for employed or self-employed earner).".

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

3rd October 2019

*Mims Davies*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

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## EXPLANATORY NOTE

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

These Regulations amend the Income Support (General) Regulations 1987 (S.I. 1987/1967), the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207), 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), the Universal Credit Regulations 2013 (S.I. 2013/376) and the Universal Credit (Transitional Provisions) Regulations 2014 (S.I. 2014/1230).

The amendments provide for the payment of arrears of an armed forces independence payment or a payment made to compensate a person for the non-payment of an armed forces independence payment to be disregarded in the calculation of that person's capital for the purposes of assessing that person's entitlement to income support, jobseeker's allowance, employment and support allowance or universal credit in accordance with the rules relating to the calculation of those benefits.

The amendments also provide for the payment of arrears of maternity allowance or a payment made to compensate a person for the non-payment of maternity allowance to be disregarded in the calculation of that person's capital for the purposes of assessing that person's entitlement to income support, jobseeker's allowance, state pension credit, housing benefit, employment and support allowance or universal credit in accordance with the rules relating to the calculation of those benefits.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.