*Regulation 9 of this instrument is made in consequence of a defect in S.I. 2014/1097 and this instrument is being issued free of charge to all known recipients of S.I. 2014/1097.*

STATUTORY INSTRUMENTS

# 2017 No. 1015

# SOCIAL SECURITY

## The Social Security (Miscellaneous Amendments No. 4) Regulations 2017

*Made - - - - 18th October 2017*

*Laid before Parliament 24th October 2017*

*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 22(5ZA), 48B(5)(a), 64(1), 70(4), 71(6), 123(1)(a) and (d), 136(3) and (5), 136A(3), 137(1) and 175(1), (3), (4) and (5) of the Social Security Contributions and Benefits Act 1992(**1**), sections 1(1), 5(1A), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(**2**), sections 12(1) and (4), 35(1) and 36(2) of the Jobseekers Act 1995(**3**), sections 9(1)(a), 79(1), (4) and (6) and 84 of the Social Security Act 1998(**4**), sections 15(3) and (6) and 17(1) of the State Pension Credit Act 2002(**5**), sections 17(1) and (3), 24(1) and 25(2) and (3) of the Welfare Reform Act 2007(**6**) and sections 77(3), 94(1) and (2) and 95 of the Welfare Reform Act 2012(**7**).

(**1**) 1992 c.4. Section 22(5ZA) was inserted by paragraphs 2 and 6(1) and (3) of Schedule 12 to the Pensions Act 2014 (c. 19). Section 48B was inserted by paragraph 3 of Schedule 4 to the Pensions Act 1995 (c. 26). Section 64(1) was amended by paragraph 41 of Schedule 1 to the Pensions Act 2007 (c. 22), and paragraphs 3 and 5(1) and (2) of Schedule 9 to the Welfare Reform Act 2012 (c.5). Section 136A was inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act 2002 (c.16). 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) ("the 1999 Act"). Section 175(1) and (3) is applied to provisions of the State Pension Credit Act 2002 by section 19(1) of that Act. Section 175(5) was amended by paragraph 36 of Schedule 1 to the 1999 Act. Section 175(6) was amended by paragraph 10 of Schedule 9 to the Local Government Finance Act 1992 (c. 14). Section 137(1) is an interpretation provision and is cited because of the meaning given to the word "prescribed".

(**2**) 1992 c.5. Section 5(1A) was inserted by section 99(3) of that Act. Section 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 1999 Act and Schedule 6 to the Tax Credits Act 2002 (c.21) and section 189(4) was also amended by S.I. 2013/252. Section 191 is an interpretation provision and is cited because of the meaning given to the word "prescribe".

(**3**) 1995 c.18. Section 35(1) was amended by paragraph 62 of Schedule 3 to the 1999 Act. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words "prescribed" and "regulations".

(**4**) 1998 c.14. Section 9(1) was amended by Part 8 of Schedule 14 to the Welfare Reform Act 2012. Section 79(1) was amended by paragraphs 143 and 168(a) of Schedule 3 to S.I. 2008/2833 and paragraphs 12 and 13(1) and (2) of Schedule 4 to the Tax Credits Act 2002. Section 84 is an interpretation provision and is cited because of the meaning given to the word "prescribe".

(**5**) 2002 c.16. Section 17(1) is an interpretation provision and is cited because of the meaning given to the words "prescribed" and "regulations".

(**6**) 2007 c.5. Section 24(1) is an interpretation provision and is cited because of the meaning given to the words "prescribed" and "regulations".

(**7**) 2012 c.5. Section 95 is an interpretation provision and is cited because of the meaning given to the word "prescribed".

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

In respect of provisions relating to housing benefit, in accordance with section 176(1) of the Social Security Administration Act 1992(**8**) 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. 4) Regulations 2017.

(2) Except for regulations 3 and 5(2), these Regulations come into force on 16th November 2017.

(3) Regulations 3 and 5(2) come into force on 6th December 2018.

## Amendment of the Social Security (Invalid Care Allowance) Regulations 1976

**2.**—(1) The Social Security (Invalid Care Allowance) Regulations 1976(**9**) are amended as follows.

(2) In regulation 9(1) (conditions relating to residence and presence in Great Britain)(**10**), for "9A and 9B" substitute "9A, 9B and 9C".

(3) After regulation 9B (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU Regulation applies)(**11**), insert—

"**Refugees**

**9C.**—(1) Regulation 9(1)(c) shall not apply where the person has—

(a) been granted refugee status or humanitarian protection under the immigration rules; or

(b) leave to enter or remain in the United Kingdom as the dependant of a person granted refugee status or humanitarian protection under the immigration rules.

(2) For the purposes of this regulation "immigration rules" means the rules laid before Parliament under section 3(2) of the Immigration Act 1971(**12**).".

## Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979

**3.**—(1) The Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979(**13**) are amended as follows.

(2) In regulation 1(2) (interpretation), after the definition of "unemployability supplement" insert —

(**8**) Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c.14), paragraph 3(4) of Schedule 13 to the Housing Act 1996 (c.52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000 (c.19).
(**9**) S.I. 1976/409.
(**10**) Relevant amending instruments are S.I. 1996/2744, 2002/2497 and 2013/389.
(**11**) Regulation 9B was inserted by S.I. 2013/389.
(**12**) 1971 c.77.
(**13**) S.I. 1979/642.

""widowed mother's allowance" means an allowance referred to in section 37 of the Social Security Contributions and Benefits Act 1992 (widowed mother's allowance: deaths before 9 April 2001)(**14**);".

(3) In regulation 7 (Category B retirement pension for certain widows by virtue of husband's contributions)—

(a) in paragraph (e), for "the age of 65" substitute "pensionable age";

(b) after paragraph (f), insert—

"(g) her having ceased to be entitled to a widowed mother's allowance at a time when she had reached the age of 65 but was under pensionable age,".

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

**4.** In regulation 42(2B) of the Income Support (General) Regulations 1987 (notional income)(**15**), for "maximum amount of income which may be withdrawn from the fund" substitute "rate of the annuity which may have been purchased with the fund".

**Amendment of the Social Security (Claims and Payments) Regulations 1987**

**5.**—(1) The Social Security (Claims and Payments) Regulations 1987(**16**) are amended as follows.

(2) In regulation 3(1)(d) (claims not required for entitlement to benefit in certain cases)(**17**)—

(a) in paragraph (i)—

(i) for "over the age of 65 and" substitute "who has reached pensionable age and is";

(ii) omit "or widowed parent's allowance";

(b) omit paragraph (ii) and the "or" immediately before it.

(3) In regulation 7(6)(b) (evidence and information)—

(a) in paragraph (i), for "maximum amount of income which may be withdrawn from the scheme" substitute "rate of the annuity which may have been purchased with the funds held under the scheme";

(b) in paragraph (ii), for "maximum amount of income which might be withdrawn from the fund" substitute "rate of the annuity which might have been purchased with the fund".

(4) In regulation 32(5)(b) (information to be given and changes to be notified)(**18**)—

(a) in paragraph (i), for "maximum amount of income which may be withdrawn from the scheme" substitute "rate of the annuity which may have been purchased with the funds held under the scheme";

(b) in paragraph (ii), for "maximum amount of income which might be withdrawn from the fund" substitute "rate of the annuity which might have been purchased with the fund".

(**14**) Section 37 was amended by paragraph 10 of Schedule 16 to the Pensions Act 2014, paragraph 2 of Schedule 1 to the Child Benefit Act 2005 (c. 6), section 50 of the Welfare Reform Act 2007, and paragraph 18 of Schedule 24, and Schedule 30 to the Civil Partnership Act 2004 (c. 33). Subsection (4) was amended in England and Wales by paragraph 22 of Schedule 1 to S.I. 2014/560. Subsection (4) was amended in Scotland by paragraph 2 of Schedule 4 to S.I. 2014/3229.

(**15**) S.I. 1987/1967. Paragraph (2B) was inserted by S.I. 1995/2303 and amended by S.I. 1999/3178 and 2007/1749.

(**16**) S.I. 1987/1968.

(**17**) Paragraph (1) was renumbered by S.I. 2015/437 and sub-paragraph (d) was amended by S.I.s 2000/1483, 2015/1985 and 2017/422.

(**18**) Paragraph (5) was inserted by S.I. 1995/2303.

### Amendment of the Social Security (Attendance Allowance) Regulations 1991

**6.**—(1) The Social Security (Attendance Allowance) Regulations 1991(**19**) are amended as follows.

(2) In regulation 2(1) (conditions as to residence and presence in Great Britain)(**20**), for "2A and 2B" substitute "2A, 2B and 2C".

(3) After regulation 2B (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU regulation applies)(**21**), insert—

"**Refugees**

**2C.**—(1) Regulation 2(1)(a)(iii) shall not apply where the person has—

(a) been granted refugee status or humanitarian protection under the immigration rules; or

(b) leave to enter or remain in the United Kingdom as the dependant of a person granted refugee status or humanitarian protection under the immigration rules.

(2) For the purposes of this regulation "immigration rules" means the rules laid before Parliament under section 3(2) of the Immigration Act 1971.".

### Amendment of the Social Security (Disability Living Allowance) Regulations 1991

**7.**—(1) The Social Security (Disability Living Allowance) Regulations 1991(**22**) are amended as follows.

(2) In regulation 2(1) (conditions as to residence and presence in Great Britain)(**23**), for "2A and 2B" substitute "2A, 2B and 2C".

(3) After regulation 2B (persons residing in an EEA state other than the United Kingdom or in Switzerland to whom a relevant EU Regulation applies)(**24**), insert—

"**Refugees**

**2C.**—(1) Regulation 2(1)(a)(iii) shall not apply where the person has—

(a) been granted refugee status or humanitarian protection under the immigration rules; or

(b) leave to enter or remain in the United Kingdom as the dependant of a person granted refugee status or humanitarian protection under the immigration rules.

(2) For the purposes of this regulation "immigration rules" means the rules laid before Parliament under section 3(2) of the Immigration Act 1971.".

### Amendment of the Jobseeker's Allowance Regulations 1996

**8.** In regulation 105(4) of the Jobseeker's Allowance Regulations 1996 (notional income)(**25**), for "maximum amount of income which may be withdrawn from the fund" substitute "rate of the annuity which may have been purchased with the fund".

(**19**) S.I. 1991/2740.
(**20**) Relevant amending instrument is S.I. 2013/389.
(**21**) Regulation 2B was inserted by S.I. 2013/389.
(**22**) S.I. 1991/2890.
(**23**) Relevant amending instruments are S.I. 1993/1939 and 2013/389.
(**24**) Regulation 2B was inserted by S.I. 2013/389.
(**25**) S.I. 1996/207. Relevant amending instruments are S.I. 1999/2860 and 2007/1749.

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

**9.** In regulation 3(7CD) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (revision of decisions)(**26**), before the words "failed to satisfy a requirement" insert ", without showing good cause,".

### Amendment of the State Pension Credit Regulations 2002

**10.**—(1) The State Pension Credit Regulations 2002(**27**) are amended as follows.

(2) In regulation 15 (income for the purposes of the Act)—

(a) in paragraph (3)—

(i) after "prescribed under paragraph (1)" insert ", or retirement pension income to which section 16(1)(za) to (e)(**28**) applies,";

(ii) after "taken into account under paragraph (1)" insert ", or section 16(1)(za) to (e),";

(b) in paragraph (4)(**29**), after sub-paragraph (d) add—

"(e) section 14 of the Pensions Act 2014 (pension sharing: reduction in the sharer's section 4 pension)(**30**);

(f) section 45B or 55B of the Social Security Contributions and Benefits Act 1992 (reduction of additional pension in Category A retirement pension and shared additional pension: pension sharing)(**31**).".

(3) In regulation 18(3) (notional income), for "maximum amount of income which may be withdrawn from the fund" substitute "rate of the annuity which may have been purchased with the fund and is to be determined by the Secretary of State, taking account of information provided by the pension fund holder in accordance with regulation 7(5) of the Social Security (Claims and Payments) Regulations 1987(**32**)".

### Amendment of the Housing Benefit Regulations 2006

**11.** In regulation 86(7)(b) of the Housing Benefit Regulations 2006 (evidence and information)(**33**)—

(a) in paragraph (i), for "maximum amount of income which may be withdrawn from the scheme" substitute "rate of the annuity which may have been purchased with the funds held under the scheme";

(b) in paragraph (ii), for "maximum amount of income which might be withdrawn from the fund" substitute "rate of the annuity which might have been purchased with the fund".

(**26**) S.I. 1999/991. Paragraph (7CD) was inserted by S.I. 2014/1097.
(**27**) S.I. 2002/1792.
(**28**) Paragraph (za) was inserted by paragraphs 42 and 44 of Schedule 12 to the Pensions Act 2014 and paragraph (b) was substituted by paragraph 15 of Schedule 11 to that Act.
(**29**) Relevant amending instruments are S.I. 2005/3360 and 2008/1554.
(**30**) 2014 c.19.
(**31**) Section 45B was inserted by paragraph 2 of Schedule 6 to the Welfare Reform and Pensions Act 1999 (c.30) and amended by section 41 of the Child Support, Pensions and Social Security Act 2000 (c.19). Section 55B was inserted by paragraph 3 of Schedule 6 to the Welfare Reform and Pensions Act 1999 and amended by section 41 of the Child Support, Pensions and Social Security Act 2000 and paragraph 7 of Schedule 11 to the Pensions Act 2014.
(**32**) Relevant amending instrument is S.I. 1999/2572.
(**33**) S.I. 2006/213. Relevant amending instrument is S.I. 2007/1749.