STATUTORY INSTRUMENTS

2017 No. 995

SOCIAL SECURITY
CHILD SUPPORT

The Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017

Made - - - -	*16th October 2017*
Laid before Parliament	*17th October 2017*
Coming into force - -	*7th November 2017*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 3(3)(c), 42 and 52(4) of, and paragraph 5 of Schedule 1 to, the Child Support Act 1991(**1**), sections 123(1)(a) and (d), 130(2), 136(3) and (5)(b), 136A(3), 137(2)(d) and 175(3) to (5) of the Social Security Contributions and Benefits Act 1992(**2**), sections 12(1) and (4)(b) and 36(2) of, and paragraph 1(2)(b) of Schedule 1 to, the Jobseekers Act 1995(**3**), section 15(3) and (6)(b) of the State Pension Credit Act 2002(**4**) and sections 17(3)(b) and 25(2) and (3) of, and paragraph 10 of Schedule 2 to, the Welfare Reform Act 2007(**5**).

In accordance with section 173(1)(b) of the Social Security Administration Act 1992(**6**), the Social Security Advisory Committee has agreed that the proposals in respect of Parts 2, 3 and 5 of these Regulations should not be referred to it.

In accordance with section 176(1) of that Act (**7**), the Secretary of State has consulted, in relation to regulations 5, 6, and 12 and Part 5, with organisations appearing to the Secretary of State to be representative of the authorities concerned. Those organisations have agreed that consultation in respect of those regulations need not be undertaken.

(**1**) 1991 c.48. Part 1 of Schedule 1 is substituted by provision made in section 1(1) of the Child Support, Pensions and Social Security Act 2000 (c.19) in the cases specified in S.I. 2003/192. See section 54(1) for the meaning of "prescribed".
(**2**) 1992 c.4 ("the SSCBA"). Section 136A(3) is inserted by paragraph 3 of Schedule 2 to the State Pension Credit Act 2002 (c.16). See section 137(1) for the meaning of "prescribed".
(**3**) 1995 c.18. See section 35(1) for the meanings of "prescribed" and "regulations".
(**4**) Section 19(1) applies section 175(3) and (4) of the SSCBA to regulations made under this Act as those provisions apply to regulations made under the SSCBA. See section 17(1) for the meanings of "prescribed" and "regulations".
(**5**) 2007 c.5. See section 24(1) for the meanings of "prescribed" and "regulations".
(**6**) 1992 c.5.
(**7**) Section 176(1)(b) was amended by paragraph 3(4) of Schedule 13 to the Housing Act 1996 and was repealed, to the extent that it related to council tax benefit, by section 147 of, and paragraph 1 of Schedule 14 to, the Welfare Reform Act 2012 (c.5) with effect from 1st April 2013 and subject to savings and transitional provisions in articles 9 and 10 of S.I. 2013/358.

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Social Security and Child Support (Care Payments and Tenant Incentive Scheme) (Amendment) Regulations 2017 and come into force on 7thNovember 2017.

PART 2

AMENDMENTS RELATING TO THE TREATMENT OF KINSHIP CARE ASSISTANCE IN SOCIAL SECURITY BENEFITS

Amendment of the Income Support (General) Regulations 1987

2.—(1) The Income Support (General) Regulations 1987(**8**) are amended as follows.

(2) In regulation 37(2)(b) (earnings of self-employed earners)—

(a) for "26 or 27" substitute "26, 27 or 27A";

(b) for "and payments" substitute ", payments";

(c) after "claimant's care" insert "and any payments made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (**9**) (kinship care assistance)".

(3) After paragraph 27 of Schedule 9 (sums to be disregarded in the calculation of income other than earnings) insert—

"**27A.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).".

(4) At the end of Schedule 10 (capital to be disregarded) insert—

"**74.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).".

Amendment of the Jobseeker's Allowance Regulations 1996

3.—(1) The Jobseeker's Allowance Regulations 1996(**10**) are amended as follows.

(2) In regulation 100(2)(b) (earnings of self-employed earners)—

(a) for "27 or 28" substitute "27, 28 or 28A";

(b) for "and payments" substitute ", payments";

(c) after "claimant's care" insert "and any payments made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance)".

(3) After paragraph 28 of Schedule 7 (sums to be disregarded in the calculation of income other than earnings) insert—

"**28A.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).".

(**8**) S.I. 1987/1967. Relevant amending instruments are S.I. 1994/2139, 2008/698 and 2017/870.
(**9**) 2014 asp 8.
(**10**) S.I. 1996/207. Relevant amending instrument is S.I. 2017/422.

(4) At the end of Schedule 8 (capital to be disregarded) insert—

"**67.** Any payments made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).".

Amendment of the State Pension Credit Regulations 2002

4.—(1) The State Pension Credit Regulations 2002(**11**) are amended as follows.

(2) In regulation 17B(4)(b) (earnings of self-employed earners), in the text of the inserted paragraph (2), after paragraph (da) insert—

"(db) any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).".

Amendment of the Housing Benefit Regulations 2006

5.—(1) The Housing Benefit Regulations 2006(**12**) are amended as follows.

(2) In regulation 37(2) (earnings of self-employed earners)—

(a) for "26 or 27" substitute "26, 27 or 27A";

(b) for "and payments" substitute ", payments";

(c) after "claimant's care" insert "and any payments made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance)".

(3) After paragraph 27 of Schedule 5 (sums to be disregarded in the calculation of income other than earnings) insert—

"**27A.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).".

(4) At the end of Schedule 6 (sums to be disregarded in the calculation of capital) insert—

"**64.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).".

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(**13**) are amended as follows.

(2) After regulation 38(2)(da) (earnings of self-employed earners) insert—

"(db) any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).".

Amendment of the Employment and Support Allowance Regulations 2008

7.—(1) The Employment and Support Allowance Regulations 2008(**14**) are amended as follows.

(2) In regulation 40(2)(d) (a claimant who works to be treated as not entitled to an employment and support allowance), for "28 or 29" substitute "28, 29 or 29A".

(3) In regulation 97(2)(b) (earnings of self-employed earners)—

(**11**) S.I. 2002/1792. Relevant amending instruments are S.I. 2002/3019 and 2017/870.
(**12**) S.I. 2006/213. Relevant amending instrument is S.I. 2017/870.
(**13**) S.I. 2006/214. Relevant amending instrument is S.I. 2016/732.
(**14**) S.I. 2008/794. Relevant amending instrument is S.I. 2017/870.

(a) for "28 or 29" substitute "28, 29 or 29A";

(b) for "and payments" substitute ", payments";

(c) after "claimant's care)" insert "and any payments made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance)".

(4) After paragraph 29 of Schedule 8 (sums to be disregarded in the calculation of income other than earnings) insert—

"**29A.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).".

(5) At the end of Schedule 9 (sums to be disregarded in the calculation of capital) insert—

"**61.** Any payment made to a claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance).".

Amendment of the Jobseeker's Allowance Regulations 2013

8.—(1) The Jobseeker's Allowance Regulations 2013(**15**) are amended as follows.

(2) In regulation 60(2) (earnings of self-employed earners), after paragraph (b) insert—

"(ba) any payment made to the claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance);".

Amendment of the Employment and Support Allowance Regulations 2013

9.—(1) The Employment and Support Allowance Regulations 2013(**16**) are amended as follows.

(2) In regulation 37(7) (a claimant who works to be treated as not entitled to an employment and support allowance), after paragraph (a) insert—

"(aa) any payment made to the claimant under section 73(1)(b) of the Children and Young People (Scotland) Act 2014 (kinship care assistance);".

PART 3

AMENDMENTS RELATING TO THE TREATMENT OF CONTINUING CARE PAYMENTS IN SOCIAL SECURITY BENEFITS

Amendment of the Income Support (General) Regulations 1987

10.—(1) The Income Support (General) Regulations 1987 are amended as follows.

(2) In regulation 6 (persons not treated as engaged in remunerative work), in paragraph (1), after sub-paragraph (k) insert—

"(ka) he is engaged in caring for a person who is provided with continuing care by a local authority by virtue of arrangements made under section 26A of the Children (Scotland) Act 1995(**17**) (duty to provide continuing care) and is in receipt of a payment made under that section of that Act;".

(3) In regulation 37 (earnings of self-employed earners)—

(a) in paragraph (2), after sub-paragraph (b) insert—

(**15**) S.I. 2013/378 to which there are amendments which are not relevant to these Regulations.
(**16**) S.I. 2013/379 to which there are amendments which are not relevant to these Regulations.
(**17**) 1995 c.36. Section 26A is inserted by section 67(1) of the Children and Young People (Scotland) Act 2014 (asp 8).

"(ba) any payment made in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care)—

(i) to a claimant; or

(ii) where paragraph (3) applies, to another person ("A") which A passes on to the claimant;";

(b) after paragraph (2) insert—

"(3) This paragraph applies only where A—

(a) was formerly in the claimant's care;

(b) is aged 16 or over; and

(c) continues to live with the claimant.".

Amendment of the Jobseeker's Allowance Regulations 1996

11.—(1) The Jobseeker's Allowance Regulations 1996 are amended as follows.

(2) In regulation 53 (persons treated as not engaged in remunerative work), after paragraph (f) insert—

"(fa) he is engaged in caring for a person who is provided with continuing care by a local authority by virtue of arrangements made under section 26A of the Children (Scotland) Act 1995 and is in receipt of a payment made under that section of that Act;".

(3) In regulation 100 (earnings of self-employed earners)—

(a) in paragraph (2), after sub-paragraph (b) insert—

"(ba) any payment made in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care)—

(i) to a claimant; or

(ii) where paragraph (3) applies, to another person ("A") which A passes on to the claimant;";

(b) after paragraph (2) insert—

"(3) This paragraph applies only where A—

(a) was formerly in the claimant's care;

(b) is aged 16 or over; and

(c) continues to live with the claimant.".

Amendment of the Housing Benefit Regulations 2006

12.—(1) The Housing Benefit Regulations 2006 are amended as follows.

(2) In regulation 37 (earnings of self-employed earners)—

(a) in paragraph (1), for "paragraph (2)" substitute "paragraphs (2) and (2A)";

(b) after paragraph (2) insert—

"(2A) Earnings shall also not include any payment made in accordance with section 26A of the Children (Scotland) Act 1995 (duty to provide continuing care)—

(a) to a claimant; or

(b) where paragraph (2B) applies, to another person ("A") which A passes on to the claimant.

(2B) This paragraph applies only where A—