

2012 No. 2575

SOCIAL SECURITY

**The Social Security (Miscellaneous Amendments) (No. 2)
Regulations 2012**

<i>Made</i> - - - -	<i>11th October 2012</i>
<i>Laid before Parliament</i>	<i>15th October 2012</i>
<i>Coming into force</i> - -	<i>5th November 2012</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 123(1)(a), 136(3), (4) and (5)(b), 137(1) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(a), sections 12(1) to (3), 20(4), 35(1) and 36(2) and (4)(a) of, and paragraphs 11(2) and 14AA of Schedule 1 to, the Jobseekers Act 1995(b), sections 9(1), 79(4) and 84 of the Social Security Act 1998(c) and sections 17(1), (2) and (3)(b), 24(1) and 25(2), (3) and (5) of the Welfare Reform Act 2007(d).

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

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 2) Regulations 2012.

(2) They come into force on 5th November 2012.

Amendment of the Income Support (General) Regulations 1987

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

(2) In regulation 2(1) (interpretation), after the definition of “the Contributions and Benefits Act”, insert—

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- (a) 1992. c.4. Section 137(1) is an interpretation provision and is cited because of the meaning given to the word “prescribed”. Sections 137(1) and 175(4) have been amended in ways not material to these Regulations.
- (b) 1995. c.18. Section 35(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”. Section 35(1) was amended by section 2 of, and paragraph 63 of Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2). Section 35(1) has been amended in ways not material to these Regulations. Paragraph 14AA of Schedule 1 to the Act was inserted by section 46(3)(b) of the Welfare Reform Act 2012.
- (c) 1998. c.14. Section 84 is an interpretation provision and is cited because of the meaning given to the word “prescribe”.
- (d) 2007. c.5. Section 24(1) is an interpretation provision and is cited because of the meaning given to the words “prescribed” and “regulations”.
- (e) 1992. c.5.
- (f) S.I 1987/1967.

““the Contributions Regulations” means the Social Security (Contributions) Regulations 2001(a);”.

(3) In regulation 29 (calculation of earnings derived from employed earner’s employment and income other than earnings)(b), after paragraph (2B), insert—

“(2C) Earnings derived by a claimant as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations in respect of a period of annual continuous training for a maximum of 15 days in any calendar year, whether paid to the claimant alone or together with other earnings derived from the same source, are to be taken into account—

- (a) in the case of a period of training exceeding 14 days, over a period of 14 days, or
- (b) in any other case, over a period which is equal to the duration of the training period.

(2D) The period over which earnings to which paragraph (2C) applies are to be taken into account shall begin on the date on which the payment is treated as paid under regulation 31.”.

(4) In Schedule 8 (sums to be disregarded in the calculation of earnings) for paragraph 15A(c), substitute—

“**15A.**—(1) Where earnings to which sub-paragraph (2) applies (in aggregate with the claimant’s other income (if any) calculated in accordance with this Part) exceed the applicable amount (as specified in Part IV and Schedule 2) less 10 pence, the amount of those earnings corresponding to that excess.

(2) This sub-paragraph applies to earnings, in so far as they exceed the amount disregarded under paragraph 7, derived by the claimant from employment as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations in respect of a period of annual continuous training for a maximum of 15 days in any calendar year.”.

Amendment of the Jobseeker’s Allowance Regulations 1996

3.—(1) The Jobseeker’s Allowance Regulations 1996(d) are amended as follows.

(2) In regulation 50 (persons temporarily absent from Great Britain), after paragraph (6C)(e), insert—

“(6D) For the purposes of the Act, a person (“P”) shall be treated as being in Great Britain during any period of temporary absence from Great Britain not exceeding 15 days where—

- (a) P’s absence is for the purpose of taking part in annual continuous training as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Contributions Regulations; and
- (b) P or P’s partner was entitled to a jobseeker’s allowance immediately before the period of absence began.”.

(3) In regulation 72 (good reason for the purposes of section 19(2)(c) and (d) and 19A(2)(c))(f), for paragraphs (a) and (b) (and the preceding “—”), substitute “one hour and thirty minutes either way,”.

(a) S.I. 2001/1004.

(b) Regulation 29 was amended by S.I. 1990/547, regulation 10(a) and (b), S.I. 1997/65, regulation 5(1)(a) and S.I. 2008/698, regulation 2(1) and (5)(a) and in other ways not material to these Regulations.

(c) Paragraph 15A of Schedule 8 was inserted by S.I. 1996/1944, regulation 6(11)(c) and amended by S.I. 2006/2378, regulation 5(1) and (9).

(d) S.I. 1996/207.

(e) Paragraph (6C) was originally inserted by S.I.2004/1869, regulation 3(1) and (4)(b). A new paragraph (6C) was substituted by S.I.2008/2767, regulation 4(1) and (3).

(f) Regulation 72 was substituted by S.I. 2012/2568, regulation 2(5).

(4) Regulation 74A (person in receipt of a training allowance)(a) is revoked.

(5) In regulation 94(2C)(a) (calculation of earnings derived from employed earner's employment and income other than earnings)(b), omit "or which is equal to the duration of the training period,".

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

4.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999(c) are amended as follows.

(2) In regulation 3 (revision of decisions)(d), after paragraph (6A), insert—

“(6B) A decision of the Secretary of State under section 8 or 10 awarding a jobseeker's allowance may be revised where the Secretary of State makes a decision under regulation 69B (the period of a reduction under section 19B: claimants ceasing to be available for employment etc.) of the Jobseeker's Allowance Regulations(e) (“the JSA Regulations”) that the amount of the award is to be reduced in accordance with regulations 69B and 70 of the JSA Regulations.”.

Amendment of the Employment and Support Allowance Regulations 2008

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

(2) In regulation 91 (calculation of earnings derived from employed earner's employment and income other than earnings), after paragraph (4), insert—

“(4A) Earnings derived by a claimant's partner as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Social Security (Contributions) Regulations 2001 in respect of a period of annual continuous training for a maximum of 15 days in any calendar year, whether paid to the claimant's partner alone or together with other earnings derived from the same source, are to be taken into account—

- (a) in the case of a period of training exceeding 14 days, over a period of 14 days, or
- (b) in any other case, over a period which is equal to the duration of the training period.

(4B) The period over which earnings to which paragraph (4A) applies are to be taken into account shall begin on the date on which the payment is treated as paid under regulation 93.”.

(3) In Schedule 7 (sums to be disregarded in the calculation of earnings)(g), after paragraph 11, insert—

“11A.—(1) In the case of an income-related employment and support allowance, where earnings to which sub-paragraph (2) applies (in aggregate with the claimant's other income (if any) calculated in accordance with this Part) exceed the applicable amount (calculated as specified in section 4(2) and (3) of the Act) less 10 pence, the amount of those earnings corresponding to that excess.

(a) Regulation 74A was inserted by S.I. 1996/1516, regulation 7 and amended by S.I. 2000/1978, regulation 2(1) and (5) and Schedule 2, paragraph 30(b).
(b) Regulation 94(2C) was inserted by S.I. 2012/1616, regulation 2(1) and (6).
(c) S.I. 1999/991.
(d) Regulation 3 was amended in ways not material to these Regulations.
(e) S.I. 1996/207. Regulations 69B and 70 were inserted by S.I. 2012/2568.
(f) S.I. 2008/794.
(g) Schedule 7 has been amended in ways not material to these Regulations.

(2) This sub-paragraph applies to earnings, in so far as they exceed the amount disregarded under paragraph 7, derived by the claimant's partner from employment as a member of any territorial or reserve force prescribed in Part 1 of Schedule 6 to the Social Security (Contributions) Regulations 2001^(a) in respect of annual continuous training for a maximum period of 15 days in any calendar year.”.

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

Freud

Parliamentary Under-Secretary of State
Department for Work and Pensions

11th October 2012

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Income Support (General) Regulations 1987 (“the 1987 Regulations”), the Jobseeker’s Allowance Regulations 1996 (“the 1996 Regulations”), the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (“the 1999 Regulations”) and the Employment and Support Allowance Regulations 2008 (“the 2008 Regulations”).

Regulation 2 amends the 1987 Regulations in relation to a person who is in receipt of income support (‘IS’) who is a member of the Territorial Army or another reserve force or whose partner is a member of one of those forces.

Regulation 2(3) provides that earnings derived from participation as a member of the reserve forces in annual continuous training, whether paid alone or together with other earnings derived from the same source, are to be taken into account, for the purpose of entitlement to IS, for a period of the same duration as the training undertaken, except where the training exceeds 14 days, in which case they must be taken into account over a period of 14 days. The period over which the earnings are to be taken into account begins on the date on which the earnings are treated as having been paid in accordance with regulation 31 of the 1987 Regulations.

Regulation 2(4) provides that earnings derived from participation in annual continuous training will be disregarded to the extent that they would have the effect (when aggregated with any other income) of reducing a claimant’s entitlement to IS to less than 10 pence per week. This ensures that claimants in receipt of IS can retain a minimum entitlement to that benefit in the weeks in which their or their partner’s earnings for participation in annual training are taken into account.

Regulation 3 amends the 1996 Regulations.

Regulation 3(2) amends regulation 50 of those Regulations so that a person who is taking part in annual continuous training, as a member of the territorial or reserve forces, for a period not exceeding 15 days in any calendar year, will be treated as being in Great Britain, for the purpose of entitlement to a jobseeker’s allowance (‘JSA’), when temporarily absent from Great Britain for the purpose of the training, provided the person or their partner was entitled to JSA immediately before the period of absence.

Regulation 3(3) amends regulation 72 of the 1996 Regulations to remove text that was inserted in error by the Jobseeker’s Allowance (Sanctions) (Amendment) Regulations 2012. The amendment has the effect that a claimant will not generally be able to show good cause for certain employment related failures or for failing to carry out a jobseeker’s direction, irrespective of their period of entitlement to a jobseeker’s allowance, if the reason for the failure is that the time it took, or would have taken them to travel from home to the employment or place mentioned in the jobseeker’s direction and back, by an appropriate route and means, is less than one hour and thirty minutes either way.

(a) S.I. 2001/1004.

Regulation 3(4) revokes regulation 74A of the 1996 Regulations which provides that income-based JSA is payable to a claimant even though section 19 of the Jobseekers Act 1995 (“the 1995 Act”) prevents payment, if the claimant is in receipt of a training allowance, subject to certain conditions. This provision is no longer required under the new sanctions regime for jobseekers to be implemented by regulations under new sections 19, 19A and 19B of the 1995 Act (inserted by section 46 of the Welfare Reform Act 2012).

Regulation 3(5) amends regulation 94(2C)(a) of the 1996 Regulations to remove text that was inserted in error by the Jobseeker’s Allowance (Members of the Reserve Forces) Regulations 2012 concerning the period over which earnings are to be taken into account which are received by a claimant who participates in annual continuous training of 15 days as a member of the territorial or reserve forces.

Regulation 4 amends the 1999 Regulations. It adds a new provision to allow a decision awarding JSA to be revised where the Secretary of State makes a decision to reduce a claimant’s award of JSA under regulation 69B of the 1996 Regulations (regulation 69B sets out the circumstances in which an award of JSA may be reduced after a previous disentitlement).

Regulation 5 amends the 2008 Regulations. It does so in relation to employment and support allowance in the same way as regulation 2 amends the 1987 Regulations but only in relation to earnings of a claimant’s partner derived from participation in annual continuous training as a member of the territorial or reserve forces.

A full impact assessment has not been published for this instrument as it has no impact on the costs of business or the voluntary sector.

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STATUTORY INSTRUMENTS

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