

**EXPLANATORY MEMORANDUM TO  
THE SOCIAL SECURITY BENEFIT (COMPUTATION OF EARNINGS)  
(AMENDMENT) REGULATIONS 2007**

**2007 No. 2613**

**1.** This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This instrument amends provisions in the Social Security Benefit (Computation of Earnings) Regulations 1996 which deal with the determination of earnings on claims to certain benefits. The benefits affected are:

Carer's Allowance;

Incapacity Benefit;

Severe Disablement Allowance;

Industrial Injuries Disablement Benefit (Unemployability Supplement cases);

State Retirement Pension; and

Maternity Allowance (Adult Dependency Increases only).

2.2 The amendments concern the treatment of final earnings upon finishing work, the formula disregard applied in respect of payments received from a sub-tenancy agreement, and the deductions of expenses for a self employed earner who provides accommodation in their home.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

None

**4. Legislative Background**

The disregard of final earnings on new claims to benefit, and the flat-rate aggregated sub-tenant disregard, are both simplification measures developed by Benefit Simplification Unit, and announced in Budget 2007. There is similar simplification to the treatment of income from boarders and sub-tenants by restoring a single formula disregard (reversing the effect of a recent Social Security Commissioner's decision).

**5. Territorial Extent and Application**

This instrument applies to Great Britain.

**6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1 The amended regulations will enable us to ignore final earnings, including holiday pay and compensatory pay such as payment in lieu of notice or remuneration, when a new claim for Carer's Allowance is made where the claimant finished work, whether full-time or part-time, before benefit entitlement commences. Final earnings will also be ignored in those benefits listed in paragraph 2.1 above where a claim is made for an Adult or Child Dependency Increase and where, normally, the partner has similarly finished work before benefit entitlement commences. This will not apply to: any payments by way of occupational or personal pension; any payments made following a period of maternity, paternity, adoption or sick leave; any payment by way of a retainer; or to any employment tribunal award (including any payment made following the settlement of a complaint to an employment tribunal or of court proceedings).
- 7.2 The amended regulations will also align the sub-tenant disregard provisions across the benefits system, so that a flat rate £20 sub-tenant disregard will apply from April 2008.
- 7.3 When board and lodging accommodation is provided in the customer's home, the first £20 of such income is disregarded, together with 50% of the remaining balance of the income. A Social Security Commissioner recently decided that due to way the regulations were drafted, when the accommodation is provided in the customer's home, the formula disregard is to be applied twice, together with a further disregard of any other allowable business expenses. This provides for the provision of 3 separate disregards. The amended regulations will ensure that only one disregard of £20 and then 50% of the balance will be applied to any income from boarders, and restore the original policy intent.
- 7.4 No consultation has been carried out in relation to these Regulations. Guidance on the changes will be provided to appropriate Decision Makers. It is not intended to consolidate the relevant regulations. A consolidated text will be available online via the DWP website.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies
- 8.2 The impact on the public sector is negligible.

## **9. Contact**

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