

# Freedom of Information request 3891/2014

Received 7 September 2014

Published

## Information request

1. In formulating Regulation 67, which I believe, is secondary legislation, which Act of Parliament provided you with the authority and power to levy a means test on people who have paid National Insurance Contributions towards the benefit that they receive?
2. Who was consulted on the regulation such as other Parliamentary parties, public bodies, third sector organisations and other interested parties before the regulation was implemented in April 2013?
3. How was the formula in Regulation 67, which applies the means test, actually constructed as it does not take account of the circumstances of individuals like housing and living costs or the additional costs associated with disability?
4. What arrangements were made to make the public aware that although they may have paid National Insurance Contributions for decades should they become ill or disabled, there would be a means test imposed on them in relation to financial help from the state?
5. Are there any bodies such as a Select Committee actually looking at the impact of Regulation 67 on people who have given up work because they have developed a health condition or disability and therefore have lost a large amount of their income?

## DWP response

Answer 1

The Welfare Reform Act 2007 provides the power to take account of pension income in determining entitlement to Employment and Support Allowance (ESA). Please note that

the ESA Regulations 2013 are based on the ESA Regulations 2008. The 2013 Regulations make no reference to income-related ESA because it is being replaced by Universal Credit. Consequently the ESA Regulations 2013 are for contributory ESA alone.

Answer 2

The Social Security Advisory Committee agreed that the Regulations need not be referred to it. The 2013 Regulations were approved by both Houses of Parliament and the measure had been previously approved as part of the Welfare Reform Act 2007.

Answer 3

The formula is based on the same rule as that which has applied to Incapacity Benefit. It was originally based on the average occupational pension when the rule was introduced in 2001 by the previous Administration.

Answer 4

There is no specific arrangement to inform claimants about the rule in advance of making a claim.

Answer 5

We are not aware of any body looking at the impact of Regulation 67 at this time.