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STATUTORY INSTRUMENTS

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**1987 No. 1968**

**The Social Security (Claims and Payments) Regulations 1987**

**PART II E+W+S**

CLAIMS

**Claims not required for entitlement to benefit in certain cases E+W+S**

3.—<sup>[F1(1)]</sup> It shall not be a condition of entitlement to benefit that a claim be made for it in the following cases:—

- <sup>[F2(z)]</sup> in the case of a Category A or B retirement pension, where the beneficiary is a person to whom regulation 3A applies;]
- (a) in the case of a Category C retirement pension where the beneficiary is in receipt of—
  - (i) another retirement pension under the Social Security Act 1975; or
  - (ii) widow's benefit under Chapter 1 of Part II of that Act; or
  - (iii) benefit by virtue of section 39(4) of that Act corresponding to a widow's pension or a widowed mother's allowance; <sup>[F3]</sup>or]
  - <sup>[F4(iv)]</sup> widowed parent's allowance;]
- (b) in the case of a Category D retirement pension where the beneficiary—
  - (i) was ordinarily resident in Great Britain on the day on which he attained 80 years of age; and
  - (ii) is in receipt of another retirement pension under the Social Security Act 1975;
- (c) age addition in any case;
- <sup>[F5(ca)]</sup> in the case of a Category A retirement pension where the beneficiary—
  - (i) is entitled to any category of retirement pension other than a Category A retirement pension; and
  - (ii) becomes divorced or the beneficiary's civil partnership is dissolved;]
- <sup>[F6(cb)]</sup> in the case of a Category B retirement pension where the beneficiary is entitled to either a Category A retirement pension or to a graduated retirement benefit or to both and
  - (i) the spouse or civil partner of the beneficiary becomes entitled to a Category A retirement pension <sup>[F7]</sup>or a state pension under section 4 of the Pensions Act 2014]; or
  - (ii) the beneficiary marries or enters into a civil partnership with a person who is entitled to a Category A retirement pension <sup>[F8]</sup>or a state pension under section 4 of the Pensions Act 2014];<sup>[F9]</sup>or]
  - <sup>[F9(iii)]</sup> the spouse or civil partner of the beneficiary dies having been entitled to a Category A retirement pension <sup>[F10]</sup>or a state pension under section 4 of the Pensions Act 2014] at the date of death;]

- (d) in the case of a Category A or B retirement pension [<sup>F11</sup>or a state pension under Part 1 of the Pensions Act 2014]—
  - (i) where the beneficiary is a woman [<sup>F12</sup>who has reached pensionable age and is] entitled to a widowed mother's allowance <sup>F13</sup> ..., on her ceasing to be so entitled; <sup>F14</sup> ...  
<sup>F14</sup>(ii) .....
- <sup>F15</sup>(da) .....
- [<sup>F16</sup>(e) in the case of retirement allowance.]
- <sup>F17</sup>(f) .....
- [<sup>F18</sup>(g) in the case of a jobseeker's allowance where—
  - (i) payment of benefit has been suspended in the circumstance prescribed in regulation 16(2) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999; and
  - (ii) the claimant whose benefit has been suspended satisfies the conditions of entitlement (apart from the requirement to claim) to that benefit immediately before the suspension ends;]
- [<sup>F19</sup>(h) in the case of income support where the beneficiary—
  - (i) is a person to whom regulation <sup>F20</sup> ... [<sup>F21</sup>6(5)] of the Income Support (General) Regulations 1987 (persons not treated as engaged in remunerative work) applies;
  - (ii) was in receipt of an income-based jobseeker's allowance [<sup>F22</sup>or an income-related employment and support allowance] on the day before the day on which he was first engaged in the work referred to in sub-paragraph (a) of [<sup>F23</sup>those paragraphs]; and
  - (iii) would satisfy the conditions of entitlement to income support (apart from the condition of making a claim which would apply in the absence of this paragraph) only by virtue of <sup>F24</sup> ... [<sup>F25</sup>regulation 6(6)] of those Regulations.]
- [<sup>F26</sup>(i) in the case of a shared additional pension where the beneficiary is in receipt of a retirement pension of any category.]
- [<sup>F27</sup>(j) in the case of an employment and support allowance where—
  - (i) the beneficiary has made and is pursuing an appeal against a relevant decision of the Secretary of State, and
  - (ii) that appeal relates to a decision to terminate or not to award a benefit for which a claim was made.]
- [<sup>F28</sup>(ja) in the case of a state pension under any section of Part 1 of the Pensions Act 2014 where the beneficiary is entitled to—
  - (i) a state pension under a different section of Part 1 of that Act; or
  - (ii) another state pension under the same section of Part 1 of that Act.]
- [<sup>F29</sup>(2) In this regulation—
  - “appellate authority” means the First-tier Tribunal, the Upper Tribunal, the Court of Appeal, the Court of Session, or the Supreme Court; and
  - “relevant decision” means—
    - (a) a decision that embodies the first determination by the Secretary of State that the claimant does not have limited capability for work; or

- (b) a decision that embodies the first determination by the Secretary of State that the claimant does not have limited capability for work since a previous determination by the Secretary of State or appellate authority that the claimant does have limited capability for work.]

### Textual Amendments

- F1** Reg. 3(1): reg. 3 renumbered as reg. 3(1) (with application in accordance with reg. 2 of the amending S.I.) by [The Employment and Support Allowance \(Repeat Assessments and Pending Appeal Awards\) \(Amendment\) Regulations 2015 \(S.I. 2015/437\)](#), regs. 1, **5(2)**
- F2** Reg. 3(za) inserted (2.11.2010) by [The Social Security \(Exemption from Claiming Retirement Pension\) Regulations 2010 \(S.I. 2010/1794\)](#), regs. 1, **2(2)**
- F3** Reg. 3(a)(iv) and word added (9.4.2001) by [The Social Security \(Benefits for Widows and Widowers\) \(Consequential Amendments\) Regulations 2000 \(S.I. 2000/1483\)](#), regs. 1, **9(3)(a)**
- F4** Reg. 3(1)(a)(iv) substituted (coming into force in accordance with art. 1-3 of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2017 \(S.I. 2017/422\)](#), arts. 1(2), **10(3)(a)**
- F5** Reg. 3(ca)(cb) inserted (24.9.2007) by [The Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2007 \(S.I. 2007/2470\)](#), regs. 1, **2(2)(a)**
- F6** Reg. 3(cb) substituted (17.3.2008) by [The Social Security \(Claims and Payments\) Amendment Regulations 2008 \(S.I. 2008/441\)](#), regs. 1, **2(2)**
- F7** Words in reg. 3(1)(cb)(i) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **9(3)(a)**
- F8** Words in reg. 3(1)(cb)(ii) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **9(3)(a)**
- F9** Reg. 3(cb)(iii) and word added (13.7.2009) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2009 \(S.I. 2009/1490\)](#), regs. 1, **2(3)**
- F10** Words in reg. 3(1)(cb)(iii) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **9(3)(a)**
- F11** Words in reg. 3(1)(d) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **9(3)(b)**
- F12** Words in reg. 3(1)(d)(i) substituted (6.12.2018) by [The Social Security \(Miscellaneous Amendments No. 4\) Regulations 2017 \(S.I. 2017/1015\)](#), regs. 1(3), **5(2)(a)(i)**
- F13** Words in reg. 3(1)(d)(i) omitted (6.12.2018) by virtue of [The Social Security \(Miscellaneous Amendments No. 4\) Regulations 2017 \(S.I. 2017/1015\)](#), regs. 1(3), **5(2)(a)(ii)**
- F14** Reg. 3(1)(d)(ii) and word omitted (6.12.2018) by virtue of [The Social Security \(Miscellaneous Amendments No. 4\) Regulations 2017 \(S.I. 2017/1015\)](#), regs. 1(3), **5(2)(b)**
- F15** Reg. 3(1)(da) omitted (coming into force in accordance with art. 1-3 of the amending S.I.) by virtue of [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2017 \(S.I. 2017/422\)](#), arts. 1(2), **10(3)(c)**
- F16** Reg. 3(1)(e) added (10.4.1989) by [The Social Security \(Claims and Payments and Payments on account, Overpayments and Recovery\) Amendment Regulations 1989 \(S.I. 1989/136\)](#), regs. 1(1), **2(2)**
- F17** Reg. 3(1)(f) repealed (13.4.1995) by [The Social Security \(Claims and Payments\) Amendment \(No. 2\) Regulations 1994 \(S.I. 1994/2943\)](#), regs. 1(1), **2**
- F18** Reg. 3(g) substituted (29.11.1999) by [The Social Security Act 1998 \(Commencement No. 12 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/3178\)](#), reg. 3(1)(a), **Sch. 6 para. 3** (with reg. 3(1)(b), Schs. 21-23)
- F19** Reg. 3(h) added (4.10.1999) by [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 1999 \(S.I. 1999/2556\)](#), regs. 1, **7**

- F20** Words in reg. 3(h)(i) omitted (25.10.2004) by virtue of The Social Security (Back to Work Bonus and Lone Parent Run-on) (Amendment and Revocation) Regulations 2003 (S.I. 2003/1589), regs. 1(1), **5(a)**
- F21** Words in reg. 3(h)(i) inserted (9.4.2001) by The Social Security (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/488), regs. 1(1), **11(2)(a)**
- F22** Words in reg. 3(h)(ii) inserted (27.7.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **11(a)**
- F23** Words in reg. 3(h)(ii) substituted (9.4.2001) by The Social Security (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/488), regs. 1(1), **11(2)(b)**
- F24** Words in reg. 3(h)(iii) omitted (25.10.2004) by virtue of The Social Security (Back to Work Bonus and Lone Parent Run-on) (Amendment and Revocation) Regulations 2003 (S.I. 2003/1589), regs. 1(1), **5(b)**
- F25** Words in reg. 3(h)(iii) inserted (9.4.2001) by The Social Security (Miscellaneous Amendments) Regulations 2001 (S.I. 2001/488), regs. 1(1), **11(2)(c)**
- F26** Reg. 3(i) added (6.7.2005) by The Social Security (Shared Additional Pension) (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/1551), regs. 1(1)(a), **2(3)** (with reg. 10)
- F27** Reg. 3(1)(j) substituted (with application in accordance with reg. 2 of the amending S.I.) by The Employment and Support Allowance (Repeat Assessments and Pending Appeal Awards) (Amendment) Regulations 2015 (S.I. 2015/437), regs. 1, **5(3)**
- F28** Reg. 3(1)(ja) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **9(3)(d)**
- F29** Reg. 3(2) inserted (with application in accordance with reg. 2 of the amending S.I.) by The Employment and Support Allowance (Repeat Assessments and Pending Appeal Awards) (Amendment) Regulations 2015 (S.I. 2015/437), regs. 1, **5(4)**

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**Modifications etc. (not altering text)**

- C1** Reg. 3 modified by SI 2010/1907 Sch. 2 para. 18 (as amended) (1.11.2010) by The Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) (Amendment) Regulations 2010 (S.I. 2010/2430), regs. 1(2), **17(9)(b)(ii)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Claims and Payments) Regulations 1987, Section 3.