
STATUTORY INSTRUMENTS

1997 No. 793

SOCIAL SECURITY

**The Social Security (Miscellaneous
Amendments) (No.2) Regulations 1997**

Made - - - - *12th March 1997*
Laid before Parliament *14th March 1997*
Coming into force in accordance with regulation 1(1)

The Secretary of State for Social Security, in exercise of the powers conferred by sections 5(1) (a) to (c) and (h), 7(1), 27(1), 47(7), 61(1), 62(1), 189(1) and (3) to (6) and 191 of the Social Security Administration Act 1992(1), sections 35(3)(b), 65(5), 76(2), 122(1) and 175(1) to (3) of the Social Security Contributions and Benefits Act 1992(2), and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee(3), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Amendments) (No. 2) Regulations 1997 and shall come into force—

- (a) for the purposes of this regulation and regulation 19(a), on 6th April 1997;
- (b) for the purposes of regulations 2(1) and (4), 3(1), (2), (4) and (6), 4 and 5, 7 to 9, 11 to 18 and 20, on 7th April 1997;
- (c) for the purposes of regulation 6—
 - (i) in so far as it relates to retirement pension or graduated retirement benefit, on 4th August 1997; and
 - (ii) for all other purposes, on 7th April 1997;
- (d) for the purposes of regulation 10—
 - (i) in so far as it relates to retirement pension, on 4th August 1997; and
 - (ii) for all other purposes, on 7th April 1997;
- (e) for the purposes of regulation 19(b) and (c), on 1st September 1997;

(1) 1992 c. 5; sections 5 and 61 were amended by the Jobseekers Act 1995 (c. 18), Schedule 2, paragraphs 39 and 45. Section 191 is an interpretation provision and is cited for the definition of “prescribe”.

(2) 1992 c. 4; section 122(1) is an interpretation provision and is cited for the definition of “prescribe”.

(3) See section 172(1) of the Social Security Administration Act 1992.

- (f) for the purposes of regulation 2 (with the exception of paragraphs (1) and (4)) and regulation 3(3) and (5), on 6th October 1997.
- (2) In these Regulations—
- (a) “the Adjudication Regulations” means the Social Security (Adjudication) Regulations 1995(4);
- (b) “the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(5).

Amendment of regulation 4 of the Claims and Payments Regulations

2.—(1) Regulation 4 of the Claims and Payments Regulations (making a claim for benefit) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) there shall be inserted after the words “Every claim for benefit” the words “other than a claim for income support or jobseeker’s allowance”.

(3) After paragraph (1) there shall be inserted the following paragraphs—

“(1A) In the case of a claim for income support or jobseeker’s allowance, the claim shall—

- (a) be made in writing on a form approved by the Secretary of State for the purpose of the benefit for which the claim is made;
- (b) unless any of the reasons specified in paragraph (1B) applies, be made in accordance with the instructions on the form; and
- (c) unless any of the reasons specified in paragraph (1B) applies, include such information and evidence as the form may require in connection with the claim.

(1B) The reasons referred to in paragraph (1A) are—

- (a) (i) the person making the claim is unable to complete the form in accordance with the instructions or to obtain the information or evidence it requires because he has a physical, learning, mental or communication difficulty; and
- (ii) it is not reasonably practicable for the claimant to obtain assistance from another person to complete the form or obtain the information or evidence;
- or
- (b) the information or evidence required by the form does not exist;
- or
- (c) the information or evidence required by the form can only be obtained at serious risk of physical or mental harm to the claimant, and it is not reasonably practicable for the claimant to obtain the information or evidence by other means;
- or
- (d) the information or evidence required by the form can only be obtained from a third party, and it is not reasonably practicable for the claimant to obtain such information or evidence from such third party;
- or
- (e) the Secretary of State is of the opinion that the person making the claim has provided sufficient information or evidence to show that he is not entitled to the benefit for which the claim is made, and that it would be inappropriate to require the form to be completed or further information or evidence to be supplied.

(4) S.I. 1995/1801.

(5) S.I. 1987/1968.

(1C) If a person making a claim is unable to complete the claim form or supply the evidence or information it requires because one of the reasons specified in sub-paragraphs (a) to (d) of paragraph (1B) applies, he may so notify an appropriate office by whatever means.”.

(4) For paragraph (5) there shall be substituted the following paragraph—

“(5) Where a person who wishes to make a claim for benefit and who has not been supplied with an approved form of claim notifies an appropriate office (by whatever means) of his intention to make a claim, he shall be supplied, without charge, with such form of claim by such person as the Secretary of State may appoint or authorise for that purpose.”.

(5) In paragraph (7) there shall be inserted after the words “If a claim” the words “, other than a claim for income support or jobseeker’s allowance,”.

(6) After paragraph (7) there shall be added the following paragraph—

“(7A) In the case of a claim for income support or jobseeker’s allowance, if a defective claim is received, the Secretary of State shall advise the person making the claim of the defect and of the relevant provisions of regulation 6(1A) or 6(4A) relating to the date of claim.”.

(7) For paragraph (8) there shall be substituted the following paragraphs—

“(8) A claim, other than a claim for income support or jobseeker’s allowance, which is made on the form approved for the time being is, for the purposes of these Regulations, properly completed if completed in accordance with the instructions on the form and defective if not so completed.

(9) In the case of a claim for income support or jobseeker’s allowance, a properly completed claim is a claim which meets the requirements of paragraph (1A) and a defective claim is a claim which does not meet those requirements.”.

Amendment of regulation 6 of the Claims and Payments Regulations

3.—(1) Regulation 6 of the Claims and Payments Regulations (date of claim) shall be amended in accordance with the following provisions of this regulation.

(2) After sub-paragraph (a) of paragraph (1) there shall be inserted the following sub-paragraph—

- “(aa) in the case of a claim for—
- family credit;
 - disability working allowance;
 - jobseeker’s allowance if first notification is received before 6th October 1997; or
 - income support if first notification is received before 6th October 1997;

which meets the requirements of regulation 4(1) and which is received in an appropriate office within one month of first notification in accordance with regulation 4(5), whichever is the later of—

- (i) the date on which that notification is received; and
- (ii) the first date on which that claim could have been made in accordance with these Regulations;”.

(3) After paragraph (1) there shall be added the following paragraph—

- “(1A) In the case of a claim for income support—
- (a) subject to the following sub-paragraphs, the date on which a claim is made shall be the date on which a properly completed claim is received in an appropriate office or the first day in respect of which the claim is made if later;

- (b) where a properly completed claim is received in an appropriate office within one month of first notification of intention to make that claim, the date of claim shall be the date on which that notification is deemed to be made or the first day in respect of which the claim is made if later;
 - (c) a notification of intention to make a claim will be deemed to be made on the date when an appropriate office receives—
 - (i) a notification in accordance with regulation 4(5); or
 - (ii) a defective claim.”
- (4) In paragraph (3)(6) for the words “, jobseeker’s allowance or a social fund payment for maternity or funeral expenses” there shall be substituted the words “or jobseeker’s allowance”.
- (5) For paragraph (4A)(7) there shall be substituted the following paragraphs—
- “(4A) Where a person notifies the Secretary of State (by whatever means) that he wishes to claim a jobseeker’s allowance—
- (a) if he is required to attend under regulation 4(6)(a)—
 - (i) if he subsequently attends for the purpose of making a claim for that benefit at the time and place specified by the Secretary of State and complies with the requirements of paragraph (4AA), the claim shall be treated as made on whichever is the later of first notification of intention to make that claim and the first day in respect of which the claim is made;
 - (ii) if, without good cause, he fails to attend for the purpose of making a claim for that benefit at either the time or place so specified, or does not comply with the requirements of paragraph (4AA), the claim shall be treated as made on the first day on which he does attend at that place and does provide a properly completed claim;
 - (b) if under regulation 4(6)(a) the Secretary of State directs that he is not required to attend—
 - (i) subject to the following sub-paragraph, the date on which the claim is made shall be the date on which a properly completed claim is received in an appropriate office or the first day in respect of which the claim is made if later;
 - (ii) where a properly completed claim is received in an appropriate office within one month of first notification of intention to make that claim, the date of claim shall be the date of that notification.
- (4AA) Unless the Secretary of State otherwise directs, a properly completed claim shall be provided at or before the time when the person making the claim for a jobseeker’s allowance is required to attend for the purpose of making a claim.
- (4AB) The Secretary of State may direct that the time for providing a properly completed claim may be extended to a date no later than the date one month after the date of first notification of intention to make that claim.”
- (6) After paragraph (11) there shall be added the following paragraphs—
- “(12) Subject to paragraph (14), where a person has claimed disability working allowance and that claim (“the original claim”) has been refused, and a further claim is made in the circumstances specified in paragraph (13), that further claim shall be treated as made—

(6) Relevant amending instruments are S.I. 1988/522, 1991/2284 and 2741 and 1996/1460.

(7) Paragraph (4A) was inserted by regulation 2 of S.I.1996/1460.

- (a) on the date of the original claim; or
 - (b) on the first date in respect of which the qualifying benefit was payable,
- whichever is the later.

(13) The circumstances referred to in paragraph (12) are that—

- (a) the original claim was refused on the ground that the claimant did not qualify under section 129(2) of the Contributions and Benefits Act;
- (b) at the date of the original claim the claimant had made a claim for a qualifying benefit and that claim had not been determined;
- (c) after the original claim had been determined, the claim for the qualifying benefit was determined in the claimant's favour; and
- (d) the further claim for disability working allowance was made within three months of the date that the claim for the qualifying benefit was determined.

(14) Paragraph (12) shall not apply in a case where the further claim for disability working allowance is made within the period prescribed under section 30(1) of the Social Security Administration Act 1992, and is accordingly treated as an application for a review under section 30(13) of that Act.

(15) In paragraphs (12) and (13) "qualifying benefit" means any of the benefits referred to in section 129(2) of the Contributions and Benefits Act.

(16) Where a person has claimed severe disablement allowance and that claim ("the original claim") has been refused, and a further claim is made in the circumstances specified in paragraph (17), that further claim shall be treated as made—

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the highest rate of the care component of disability living allowance was payable,

whichever is the later.

(17) The circumstances referred to in paragraph (16) are that—

- (a) the original claim was refused on the ground that the claimant's disablement was less than 80 per cent.;
- (b) at the date of the original claim the claimant had made a claim for disability living allowance, and that claim had not been determined;
- (c) after the original claim had been determined, the claimant was awarded the highest rate of the care component of disability living allowance; and
- (d) the further claim for severe disablement allowance was made within three months of the date that the claim for disability living allowance was determined.

(18) Where a person has ceased to be entitled to incapacity benefit, and a further claim for incapacity benefit is made in the circumstances specified in paragraph (19), that further claim shall be treated as made—

- (a) on the date that entitlement to incapacity benefit ceased; or
- (b) on the first date in respect of which the qualifying benefit was payable;

whichever is the later.

(19) The circumstances referred to in paragraph (18) are that—

- (a) entitlement to incapacity benefit ceased on the ground that the claimant was not incapable of work;

- (b) at the date that entitlement to incapacity benefit ceased the claimant had made a claim for a qualifying benefit and that claim had not been determined;
- (c) after entitlement to incapacity benefit had ceased, the claim for the qualifying benefit was determined in the claimant's favour; and
- (d) the further claim for incapacity benefit was made within three months of the date that the claim for the qualifying benefit was determined.

(20) In paragraphs (18) and (19) "qualifying benefit" means any of the payments referred to in regulation 10(2)(a) of the Social Security (Incapacity for Work) (General) Regulations 1995(8).

(21) Where a person has claimed invalid care allowance and that claim ("the original claim") has been refused, and a further claim is made in the circumstances specified in paragraph (22), that further claim shall be treated as made—

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the qualifying benefit was payable in respect of the disabled person,

whichever is the later.

(22) The circumstances referred to in paragraph (21) are that—

- (a) the original claim was refused on the ground that the disabled person was not a severely disabled person within the meaning of section 70(2) of the Contributions and Benefits Act;
- (b) at the date of the original claim the disabled person had made a claim for a qualifying benefit, and that claim had not been determined;
- (c) after the original claim had been determined, the claim for the qualifying benefit was determined in the disabled person's favour; and
- (d) the further claim for invalid care allowance was made within three months of the date that the claim for the qualifying benefit was determined.

(23) In paragraphs (21) and (22)—

- (a) "the disabled person" means the person for whom the invalid care allowance claimant is caring in accordance with section 70(1)(a) of the Contributions and Benefits Act; and
- (b) "qualifying benefit" means any benefit or payment referred to in section 70(2) of the Contributions and Benefits Act.

(24) Where a person has claimed a social fund payment in respect of maternity or funeral expenses and that claim ("the original claim") has been refused, and a further claim is made in the circumstances specified in paragraph (25), that further claim shall be treated as made—

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the qualifying benefit was awarded,

whichever is the later.

(25) The circumstances referred to in paragraph (24) are that—

- (a) the original claim was refused on the ground that the claimant had not been awarded a qualifying benefit;
- (b) at the date of the original claim the claimant had made a claim for a qualifying benefit and that claim had not been determined;

- (c) after the original claim had been determined, the claim for the qualifying benefit was determined in the claimant's favour; and
 - (d) the further claim for a social fund payment was made within three months of the date that the claim for the qualifying benefit was determined.
- (26) In paragraphs (24) and (25) "qualifying benefit" means—
- (a) in the case of a claim for a social fund payment in respect of maternity expenses, any benefit referred to in regulation 5(1)(a) of the Social Fund Maternity and Funeral Expenses (General) Regulations 1987⁽⁹⁾;
 - (b) in the case of a claim for a social fund payment in respect of funeral expenses, any benefit referred to in regulation 7(1)(a) of those Regulations⁽¹⁰⁾.
- (27) Where a claim is made for family credit or disability working allowance, and—
- (a) the claimant had previously made a claim for income support or jobseeker's allowance ("the original claim");
 - (b) the original claim was refused on the ground that the claimant or his partner was in remunerative work; and
 - (c) the claim for family credit or disability working allowance was made within 14 days of the date that the original claim was determined,
- that claim shall be treated as made on the date of the original claim, or, if the claimant so requests, on a later date specified by the claimant.
- (28) Where a claim is made for income support or jobseeker's allowance, and—
- (a) the claimant had previously made a claim for family credit or disability working allowance ("the original claim");
 - (b) the original claim was refused on the ground that the claimant or his partner was not in remunerative work; and
 - (c) the claim for income support or jobseeker's allowance was made within 14 days of the date that the original claim was determined,
- that claim shall be treated as made on the date of the original claim, or, if the claimant so requests, on a later date specified by the claimant."

Amendment of regulation 10 of the Claims and Payments Regulations

- 4.** In regulation 10 of the Claims and Payments Regulations⁽¹¹⁾ (claim for incapacity benefit or severe disablement allowance where no entitlement to statutory sick pay or statutory maternity pay)—
- (a) in paragraph (2) sub-paragraph (b) shall be omitted; and
 - (b) in paragraph (4)—
 - (i) in sub-paragraph (a), for the words "one month" there shall be substituted the words "three months"; and
 - (ii) sub-paragraph (b) shall be omitted.

⁽⁹⁾ S.I. 1987/481; relevant amending instruments are S.I. 1988/36, 1991/2742 and 1996/1443.

⁽¹⁰⁾ S.I. 1987/481; regulation 7 was substituted by S.I. 1997/792.

⁽¹¹⁾ Relevant amending instrument is S.I. 1994/2943.

Amendment of regulation 11 of the Claims and Payments Regulations

5. In regulation 11(2) of the Claims and Payments Regulations(12) (special provisions where a woman is confined) for the words “one month” there shall be substituted the words “three months”.

Substitution of regulation 19 of the Claims and Payments Regulations

6. For regulation 19 of the Claims and Payments Regulations(13) (time for claiming benefit) there shall be substituted the following regulation—

“Time for claiming benefit

19.—(1) Subject to the following provisions of this regulation, the prescribed time for claiming any benefit specified in column (1) of Schedule 4 is the appropriate time specified opposite that benefit in column (2) of that Schedule.

(2) The prescribed time for claiming the benefits specified in paragraph (3) is three months beginning with any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to the benefit concerned.

(3) The benefits to which paragraph (2) applies are—

- (a) child benefit;
- (b) guardian’s allowance;
- (c) graduated retirement benefit(14);
- (d) invalid care allowance;
- (e) maternity allowance;
- (f) retirement pension of any category;
- (g) widow’s benefit;
- (h) except in a case to which section 3(3) of the Social Security Administration Act 1992 applies (late claims for widowhood benefits where death is difficult to establish), any increase in any benefit (other than income support or jobseeker’s allowance) in respect of a child or adult dependant.

(4) Subject to paragraph (8), in the case of a claim for income support, jobseeker’s allowance, family credit or disability working allowance, where the claim is not made within the time specified for that benefit in Schedule 4, the prescribed time for claiming the benefit shall be extended, subject to a maximum extension of three months, to the date on which the claim is made, where—

- (a) any of the circumstances specified in paragraph (5) applies or has applied to the claimant; and
- (b) as a result of that circumstance or those circumstances the claimant could not reasonably have been expected to make the claim earlier.

(5) The circumstances referred to in paragraph (4) are—

- (a) the claimant has difficulty communicating because—
 - (i) he has learning, language or literacy difficulties; or

(12) Relevant amending instrument is S.I. 1994/2943.

(13) Relevant amending instruments are S.I. 1988/522, 1989/1686, 1991/2284 and 2741, 1992/247 and 2595, 1993/2113 and 1996/425, 1460, 2306 and 2431.

(14) Graduated retirement benefit is payable under section 36 of the National Insurance Act 1965 (c. 51). Section 36 was repealed by the Social Security Act 1973 (c. 38) but is continued in force, subject to modifications, by regulation 3 of the Social Security (Graduated Retirement Benefit) (No.2) Regulations 1978 (S.I. 1978/393).

- (ii) he is deaf or blind,
and it was not reasonably practicable for the claimant to obtain assistance from another person to make his claim;
 - (b) except in the case of a claim for jobseeker's allowance, the claimant was ill or disabled, and it was not reasonably practicable for the claimant to obtain assistance from another person to make his claim;
 - (c) the claimant was caring for a person who is ill or disabled, and it was not reasonably practicable for the claimant to obtain assistance from another person to make his claim;
 - (d) the claimant was given information by an officer of the Department of Social Security or of the Department for Education and Employment which led the claimant to believe that a claim for benefit would not succeed;
 - (e) the claimant was given written advice by a solicitor or other professional adviser, a medical practitioner, a local authority, or a person working in a Citizens Advice Bureau or a similar advice agency, which led the claimant to believe that a claim for benefit would not succeed;
 - (f) the claimant or his partner was given written information about his income or capital by his employer or former employer, or by a bank or building society, which led the claimant to believe that a claim for benefit would not succeed;
 - (g) the claimant was required to deal with a domestic emergency affecting him and it was not reasonably practicable for him to obtain assistance from another person to make his claim; or
 - (h) the claimant was prevented by adverse weather conditions from attending the appropriate office.
- (6) In the case of a claim for income support, jobseeker's allowance, family credit or disability working allowance, where—
- (a) the claim is not made within the time specified for that benefit in Schedule 4, but is made within one month of the expiry of that time; and
 - (b) the Secretary of State considers that to do so would be consistent with the proper administration of benefit,

the Secretary of State may direct that the prescribed time for claiming shall be extended by such period as he considers appropriate, subject to a maximum of one month, where any of the circumstances specified in paragraph (7) applies.

- (7) The circumstances referred to in paragraph (6) are—
- (a) the appropriate office where the claimant would be expected to make a claim was closed and alternative arrangements were not available;
 - (b) the claimant was unable to attend the appropriate office due to difficulties with his normal mode of transport and there was no reasonable alternative available;
 - (c) there were adverse postal conditions;
 - (d) the claimant was previously in receipt of another benefit, and notification of expiry of entitlement to that benefit was not sent to the claimant before the date that his entitlement expired;
 - (e) in the case of a claim for family credit, the claimant had previously been entitled to income support or jobseeker's allowance ("the previous benefit"), and the claim for family credit was made within one month of expiry of entitlement to the previous benefit;

- (f) except in the case of a claim for family credit or disability working allowance, the claimant had ceased to be a member of a married or unmarried couple within the period of one month before the claim was made; or
 - (g) during the period of one month before the claim was made a close relative of the claimant had died, and for this purpose “close relative” means partner, parent, son, daughter, brother or sister.
- (8) This regulation shall not have effect with respect to a claim to which regulation 21ZA(2) of the Income Support (General) Regulations 1987⁽¹⁵⁾ (treatment of refugees) applies.”.

Amendment of Schedule 4 to the Claims and Payments Regulations

7. In paragraph 2 of Schedule 4 to the Claims and Payments Regulations⁽¹⁶⁾ (prescribed times for claiming benefit) in column (2) for the words “1 month” there shall be substituted the words “3 months”.

Amendment of regulation 52 of the Adjudication Regulations

8. In regulation 52(b) of the Adjudication Regulations (review on ground of unforeseen aggravation) for all the words following “relevant loss of faculty” there shall be substituted the words “for the period of one month before the date of the application for review, and for any time after that date.”.

Amendment of regulation 57 of the Adjudication Regulations

9. In regulation 57 of the Adjudication Regulations (date from which revised decision has effect on a review)—

- (a) in paragraph (2) for the words “30(2)(a) and (4) and 35(1)(a)” there shall be substituted the words “30(2)(a), (4) and (5)(a), and 35(1)(a) and (3)(a)”;
- (b) in paragraph (3) after the words “30(2)(d)” there shall be inserted the words “and (5)(c)”.

Amendment of regulation 59 of the Adjudication Regulations

10.—(1) Regulation 59 of the Adjudication Regulations (review of decisions involving payment or increase of certain benefits) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)⁽¹⁷⁾, for all the words following “a date not earlier than” there shall be substituted the words “one month before the date of the application for the review.”.

(3) After paragraph (1) there shall be inserted the following paragraphs—

“(1A) A determination on a claim or question relating to incapacity benefit may be revised on a review so as to increase the amount of incapacity benefit payable in respect of a period which falls more than one month before the date of the application for the review where the reason for the revised determination is that section 30B(4) of the Contributions and Benefits Act⁽¹⁸⁾ applies to the claimant because he has become entitled to the highest rate of the care component of disability living allowance.

(1B) A determination on a claim or question relating to incapacity benefit or severe disablement allowance may be revised on a review so as to make incapacity benefit or severe

⁽¹⁵⁾ S.I. 1987/1967; regulation 21ZA was inserted by S.I. 1996/2431.

⁽¹⁶⁾ Relevant amending instrument is S.I. 1994/2943.

⁽¹⁷⁾ Relevant amending instruments are S.I. 1996/425, 1518 and 1803.

⁽¹⁸⁾ Section 30B was inserted by section 2(1) of the Social Security (Incapacity for Work) Act 1994 (c. 18).

disablement allowance payable in respect of a period which falls more than one month before the date of the application for the review where on a review under section 25(1)(a) of the Administration Act (review for error of fact), it is determined that the claimant is to be treated as incapable of work under regulation 10 of the Social Security (Incapacity for Work) (General) Regulations 1995(19) (certain persons with a severe condition to be treated as incapable of work).”.

(4) Paragraph (2) shall be omitted.

(5) For paragraph (3) there shall be substituted the following paragraph—

“(3) A review may have effect from a date earlier than one month before the date of the application where—

(a) regulation 57 or 58 applies; or

(b) it is certified in the decision on review that the original decision was revised by reason only of—

(i) a matter specified in section 17(1)(b) of the Administration Act (contributions and earnings factors); or

(ii) a matter relating to the number of days in respect of which the claimant has been entitled or deemed to be entitled to short-term incapacity benefit.”.

(6) In paragraph (5)(c) for the words “3 months” there shall be substituted the words “one month”.

Amendment of regulation 60 of the Adjudication Regulations

11. In regulation 60(1) of the Adjudication Regulations (review of decisions involving payment or increase of industrial injuries benefit), for all the words following “have effect” there shall be substituted the words “from such date as may be specified in that decision, being a date not earlier than one month before the date of the application for the review.”.

Amendment of regulation 62 of the Adjudication Regulations

12. In regulation 62 of the Adjudication Regulations (period to be taken into account by assessments revised on ground of unforeseen aggravation) for the words “3 months” there shall be substituted the words “one month”.

Amendment of regulation 63 of the Adjudication Regulations

13.—(1) Regulation 63 of the Adjudication Regulations (review in income support cases) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)—

(a) after the words “regulation 58 applies,” there shall be inserted the words “and subject to paragraph (1A),”; and

(b) for the words “12 months” in each place where they occur there shall be substituted the words “one month”.

(3) After paragraph (1) there shall be inserted the following paragraph—

“(1A) A determination on a claim or question relating to income support may be revised on a review so as to make income support payable, or to increase the claimant’s applicable amount under Part IV of the Income Support Regulations, or to increase the amount of income support payable, in respect of a period which falls more than one month before the

date the review was requested, or, where no request is made, the date of the review, (“the one-month period”) where—

- (a) the reason for the revised determination is that the claimant has become entitled to another benefit; and
- (b) arrears of that other benefit are payable in respect of a period before the one-month period.”.

Amendment of regulation 63A of the Adjudication Regulations

14.—(1) Regulation 63A of the Adjudication Regulations(**20**) (review in jobseeker’s allowance cases) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)—

- (a) for the words “paragraph (2)” there shall be substituted the words “paragraph (1A)”;
- (b) sub-paragraph (a) shall be omitted;
- (c) in sub-paragraph (b)—
 - (i) the words “in a case not falling within sub-paragraph (a) above,” shall be omitted; and
 - (ii) for the words “12 months” there shall be substituted the words “one month”; and
- (d) in sub-paragraph (c)—
 - (i) the words “in any case,” shall be omitted; and
 - (ii) for the words “12 months” there shall be substituted the words “one month”.

(3) After paragraph (1) there shall be inserted the following paragraph—

“(1A) A determination on a claim or question relating to jobseeker’s allowance may be revised on a review so as to make jobseeker’s allowance payable, or to increase the claimant’s applicable amount under Part VII of the Jobseeker’s Allowance Regulations, or to increase the amount of jobseeker’s allowance payable, in respect of a period which falls more than one month before the date the review was requested, or, where no request is made, the date of the review, (“the one-month period”) where—

- (a) the reason for the revised determination is that the claimant has become entitled to another benefit; and
- (b) arrears of that other benefit are payable in respect of a period before the one-month period.”.

(4) Paragraph (2) shall be omitted.

Amendment of regulation 65 of the Adjudication Regulations

15. In regulation 65 of the Adjudication Regulations (review in family credit cases) for the words “12 months” there shall be substituted the words “one month”.

Amendment of regulation 66 of the Adjudication Regulations

16. In regulation 66(2) of the Adjudication Regulations (review in disability working allowance cases) for the words “12 months” there shall be substituted the words “one month”.

Amendment of regulation 67 of the Adjudication Regulations

17. In regulation 67 of the Adjudication Regulations (review in social fund cases)—
- (a) the words “or expenses for heating which appear to the Secretary of State to have been or to be likely to be incurred in cold weather” shall be omitted;
 - (b) the words “and section 66 of the Administration Act” shall be omitted; and
 - (c) for all the words following the words “a claim for such expenses” there shall be substituted the words “where the application for review was made more than one month after the expiry of the time for claiming the payment in respect of the expenses under Schedule 4 to the Social Security (Claims and Payments) Regulations 1987.”.

Amendment of the Social Security (Maternity Allowance) Regulations 1987

18. In regulation 3 of the Social Security (Maternity Allowance) Regulations 1987(21) (modification of the maternity allowance period), paragraphs (3) to (6) shall be omitted.

Revocations

19. The following regulations shall be revoked—
- (a) regulation 2 of the Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations 1996(22);
 - (b) regulation 4 of the Social Security (Attendance Allowance) Regulations 1991(23) (attendance allowance payable before the date of claim in renewal cases); and
 - (c) regulation 5 of the Social Security (Disability Living Allowance) Regulations 1991(24) (late claim by a person previously entitled).

Savings

20.—(1) In the case of a claim for retirement pension or graduated retirement benefit made on or before 3rd August 1997, regulation 19 of the Claims and Payments Regulations shall have effect as if regulation 6 of these Regulations had not been made.

(2) In the case of an application for a review of a decision relating to retirement pension where the application is made on or before 3rd August 1997, regulation 59 of the Adjudication Regulations shall have effect as if regulation 10 of these Regulations had not been made.

Signed by authority of the Secretary of State for Social Security.

12th March 1997

Roger Evans
Parliamentary Under-Secretary of State,
Department of Social Security

(21) S.I. 1987/416; relevant amending instrument is S.I.1994/1882.

(22) S.I. 1996/1803.

(23) S.I. 1991/2740; relevant amending instrument is S.I. 1992/703.

(24) S.I. 1991/2890; relevant amending instrument is S.I. 1993/1939.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations 1987 (S.I.1987/1968) in the following respects:

the requirements for making a claim in the case of a claim for income support or jobseeker's allowance are amended, so that except in specified circumstances, such a claim must be made in writing on a form approved by the Secretary of State and in accordance with the instructions on the form, and must include any information or evidence which the form may require (regulation 2);

the time limits for claiming benefit are amended so that the maximum time for which entitlement to benefit may be backdated is three months for all benefits (regulations 4 to 7);

in respect of certain benefits, backdating of claims is only possible where the claimant was unable to claim earlier because of one of a number of specified reasons; also the time for claiming benefit may be extended for up to one month at the discretion of the Secretary of State where other specified circumstances apply (regulation 6);

the provisions on the date of claim are amended so that for specified claims, where a properly completed claim is received within one month of first notification of intention to make a claim, the date of claim shall be the date of that notification. Special rules apply in a claim for jobseeker's allowance (regulation 3);

in specified circumstances, where a claim for benefit has been refused, and a second claim is later made for the same benefit, the second claim will be treated as made on the date of the first claim (regulation 3).

These Regulations also amend the Social Security Adjudication Regulations 1995 (S.I. 1995/1801) to provide that, subject to certain exceptions, where entitlement to benefit is reviewed, the review cannot be backdated for more than one month (regulations 8 to 17).

The Regulations also amend the Social Security (Maternity Allowance) Regulations 1987 (S.I. 1987/416) in respect of the circumstances in which the maternity allowance period may be modified (regulation 18).

These Regulations revoke regulation 4 of the Social Security (Attendance Allowance) Regulations 1991 (S.I. 1991/2740) and regulation 5 of the Social Security (Disability Living Allowance) Regulations 1991 (S.I. 1991/2890), which permitted entitlement to those benefits to be backdated in certain circumstances; they also revoke regulation 2 of the Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations 1996 (S.I.1996/1803), which is rendered obsolete by these Regulations (regulation 19).

The Report of the Social Security Advisory Committee dated 27 February 1997 on the proposals referred to it together with a statement showing the extent to which these Regulations give effect to the Recommendations of the Committee, and in so far as they do not give effect to them the reasons why not, are contained in Command Paper Cm. 3586, published by The Stationery Office Limited.

These Regulations do not impose any costs on business.