
DRAFT STATUTORY INSTRUMENTS

2013 No.

**The Universal Credit, Personal Independence Payment,
Jobseeker's Allowance and Employment and Support
Allowance (Decisions and Appeals) Regulations 2013**

PART 2

REVISION

CHAPTER 1

REVISION ON ANY GROUNDS

Revision on any grounds

5.—(1) Any decision of the Secretary of State under section 8 or 10 of the 1998 Act (“the original decision”)(1) may be revised by the Secretary of State if—

- (a) the Secretary of State commences action leading to the revision within one month of the date of notification of the original decision; or
- (b) an application for a revision is received by the Secretary of State at an appropriate office within—
 - (i) one month of the date of notification of the original decision (but subject to regulation 38(4)(correction of accidental errors));
 - (ii) 14 days of the expiry of that period if a written statement of the reasons for the decision is requested under regulation 7 (consideration of revision before appeal) or regulation 51 (notice of a decision against which an appeal lies) and that statement is provided within the period specified in paragraph (i);
 - (iii) 14 days of the date on which that statement was provided if the statement was requested within the period specified in paragraph (i) but was provided after the expiry of that period; or
 - (iv) such longer period as may be allowed under regulation 6 (late application for a revision).

(2) Paragraph (1) does not apply—

- (a) in respect of a relevant change of circumstances which occurred since the decision had effect or, in the case of an advance award under regulation 32, 33 or 34 of the Claims and Payments Regulations 2013, since the decision was made;

(1) Relevant amendments were made to section 8 by section 18 of, and paragraph 22 of Schedule 7 to, the Contributions Act 1999, by section 11 of, and paragraphs 4 and 6 of Schedule 1 to, the 2002 Act, by section 28 of, and paragraph 17 of Schedule 3 to, the 2007 Act and by sections 31 and 91 of, and paragraphs 43 and 45 of Schedule 2 and paragraphs 37 and 39 of Schedule 9, to the 2012 Act. Section 10 was amended by sections 18 and 26 of, and paragraph 23 of Schedule 7 and Schedule 10 to, the Contributions Act 1999, by amended [S.I. 2008/2833](#) and by sections 103 and 147 of, and paragraph 4 of Schedule 12 and Schedule 14 to, the 2012 Act.

- (b) where the Secretary of State has evidence or information which indicates that a relevant change of circumstances will occur;
- (c) in respect of a decision which relates to an employment and support allowance or personal independence payment where the claimant is terminally ill, unless the application for a revision contains an express statement that the claimant is terminally ill.

Late application for a revision

6.—(1) The Secretary of State may extend the time limit specified in regulation 5(1) (revision on any grounds) for making an application for a revision if all of the following conditions are met.

(2) The first condition is that the person wishing to apply for the revision has applied to the Secretary of State at an appropriate office for an extension of time.

(3) The second condition is that the application—

- (a) explains why the extension is sought;
- (b) contains sufficient details of the decision to which the application relates to enable it to be identified; and
- (c) is made within 13 months of the latest date by which the application for revision should have been received by the Secretary of State in accordance with regulation 5(1)(b)(i) to (iii).

(4) The third condition is that the Secretary of State is satisfied that it is reasonable to grant the extension.

(5) The fourth condition is that the Secretary of State is satisfied that due to special circumstances it was not practicable for the application for revision to be made within the time limit specified in regulation 5(1)(b)(i) to (iii) (revision on any grounds).

(6) In determining whether it is reasonable to grant an extension of time, the Secretary of State must have regard to the principle that the greater the amount of time that has elapsed between the end of the time limit specified in regulation 5(1)(b)(i) to (iii) (revision on any grounds) and the date of the application, the more compelling should be the special circumstances on which the application is based.

(7) An application under this regulation which has been refused may not be renewed.

Consideration of revision before appeal

7.—(1) This regulation applies in a case where—

- (a) the Secretary of State gives a person written notice of a decision under section 8 or 10 of the 1998 Act (whether as originally made or as revised under section 9 of that Act)(2); and
- (b) that notice includes a statement to the effect that there is a right of appeal in relation to the decision only if the Secretary of State has considered an application for a revision of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under section 12(2) of the 1998 Act in relation to the decision only if the Secretary of State has considered on an application whether to revise the decision under section 9 of that Act.

(3) The notice referred to in paragraph (1) must inform the person—

- (a) of the time limit under regulation 5(1) (revision on any grounds) for making an application for a revision; and

(2) Section 9 was amended by section 147 of, and Schedule 14 to, the 2012 Act.

(b) that, where the notice does not include a statement of the reasons for the decision (“written reasons”), the person may, within one month of the date of notification of the decision, request that the Secretary of State provide written reasons.

(4) Where written reasons are requested under paragraph (3)(b), the Secretary of State must provide that statement within 14 days of receipt of the request or as soon as practicable afterwards.

(5) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a revision under section 9 of the 1998 Act.

CHAPTER 2

REVISION ON SPECIFIC GROUNDS

Introduction

8. A decision of the Secretary of State under section 8 or 10 of the 1998 Act may be revised at any time by the Secretary of State in any of the cases and circumstances set out in this Chapter.

Official error, mistake etc.

9. A decision may be revised where the decision—

- (a) arose from official error; or
- (b) was made in ignorance of, or was based on a mistake as to, some material fact and as a result is more advantageous to a claimant than it would otherwise have been.

Decisions against which no appeal lies

10. A decision may be revised where the decision is one which is—

- (a) specified in Schedule 2 (decisions against which no appeal lies) to the 1998 Act; or
- (b) prescribed by regulation 50(2) (decisions which may or may not be appealed).

Decisions where there is an appeal

11.—(1) A decision may be revised where there is an appeal against the decision within the time prescribed by the Tribunal Procedure Rules but the appeal has not been decided.

(2) Where—

- (a) the Secretary of State makes a decision under section 8 or 10 of the 1998 Act or such a decision is revised under section 9(1) of the 1998 Act (“decision A”);
- (b) the claimant appeals against decision A;
- (c) after the appeal has been made, but before it results in a decision by the First-tier Tribunal, the Secretary of State makes another decision (“decision B”) which—
 - (i) supersedes decision A; or
 - (ii) decides a further claim by the claimant;
- (d) after the making of decision B, the First-tier Tribunal makes a decision on the appeal (“decision C”); and
- (e) the Secretary of State would have made decision B differently if, at the time, the Secretary of State had been aware of decision C,

the Secretary of State may revise decision B.

Award of another benefit

12. Where—

- (a) the Secretary of State makes a decision to award a benefit to a claimant (“the original award”); and
- (b) an award of another relevant benefit or of an increase in the rate of another relevant benefit is made to the claimant or, in the case of universal credit, to a member of their family, for a period which includes the date on which the original award took effect,

the Secretary of State may revise the original award.

Advance awards etc.

13. A decision pursuant to regulation 32, 33 or 34 of the Claims and Payments Regulations 2013 to make an advance award of benefit may be revised if the conditions for entitlement are found not to have been satisfied at the start of the period for which the claim is treated as having been made.

Sanctions cases etc.

14.—(1) The following decisions may be revised—

- (a) a decision that the amount of an employment and support allowance is to be reduced by virtue of section 11J(1) (sanctions)(3) of the 2007 Act;
- (b) a decision that the amount of a jobseeker's allowance is to be reduced by virtue of section 6J (higher-level sanctions) or 6K(1) (other sanctions)(4) of the Jobseekers Act;
- (c) a decision that the amount of universal credit is to be reduced by virtue of section 26(1) (higher-level sanctions) or 27(1) (other sanctions) of the 2012 Act.

(2) A decision under section 6B, 7 or 9 (“the loss of benefit provisions”) of the Fraud Act(5) that benefit ceases to be payable or falls to be reduced as a result of the person—

- (a) being convicted of an offence; or
- (b) agreeing to pay a penalty as an alternative to prosecution,

may be revised where that conviction is quashed or set aside by a court or where the person withdraws the agreement to pay the penalty.

Other decisions relating to an employment and support allowance

15.—(1) A decision awarding an employment and support allowance may be revised in any of the following circumstances.

(2) The first circumstance is where—

- (a) the decision was made on the basis that the claimant had made and was pursuing an appeal against a decision of the Secretary of State that the claimant did not have limited capability for work (“the original decision”); and
- (b) the appeal in relation to the original decision is successful.

(3) The second circumstance is where—

(3) Section 11J was inserted by section 57 of the 2012 Act.
(4) Sections 6J and 6K were inserted by section 49 of the 2012 Act.
(5) Section 6B was inserted by section 24(1) the 2009 Act. Section 6B is amended by section 113(8) of the 2012 Act and by the 2009 and 2012 Acts, from a date to be appointed. Section 7 was amended by paragraph 45 of Schedule 2 to the 2002 Act, by Schedule 6 to the Tax Credits Act, by section 49 of, and paragraph 23 to Schedule 3 to, the 2007 Act and by paragraph 2 of Schedule 4 to the 2009 Act. Section 7(4A) was inserted by paragraph 45(2) of Schedule 2 to the 2002 Act. Section 7(4B) was inserted by paragraph 23(2) of Schedule 3 to the 2007 Act. Section 9(4A) was inserted by paragraph 46(3) of Schedule 2 to the 2002 Act. Section 9(4B) was inserted by paragraph 23(5) of Schedule 3 to the 2007 Act.

- (a) the decision incorporates a determination that the conditions in regulation 26(2) (conditions for treating claimant as having limited capability for work until a determination about limited capability for work has been made) of the Employment and Support Allowance Regulations 2013 are satisfied;
 - (b) those conditions were not satisfied when the claim was made; and
 - (c) a decision falls to be made concerning entitlement to that award in respect of a period before the date on which the award took effect.
- (4) The third circumstance is where the claimant's current period of limited capability for work is treated as a continuation of another such period under regulation 86 (linking period) of the Employment and Support Allowance Regulations 2013.
- (5) A decision terminating a person's entitlement to an employment and support allowance may be revised where—
- (a) that entitlement was terminated because of section 1A (duration of contributory allowance) of the 2007 Act⁽⁶⁾; and
 - (b) it is subsequently determined, in relation to the period of entitlement before that decision, that the person had or is treated as having had limited capability for work-related activity.

Other decisions relating to a jobseeker's allowance

16.—(1) A decision awarding a jobseeker's allowance may be revised in any of the following circumstances.

- (2) The first circumstance is where—
- (a) the Secretary of State makes a conversion decision (within the meaning of regulation 5(2) (b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (deciding whether an existing award qualifies for conversion))⁽⁷⁾ in respect of a person;
 - (b) the person appeals against that decision;
 - (c) before or after the appeal is made, there is a decision to award a jobseeker's allowance as the result of a claim being made by that person; and
 - (d) the appeal in relation to the conversion decision referred to in sub-paragraph (a) is successful.
- (3) The second circumstance is where—
- (a) a person's entitlement to an employment and support allowance is terminated because of a decision which embodies a determination that the person does not have limited capability for work;
 - (b) the person appeals against that decision;
 - (c) before or after the appeal is made, there is a decision to award a jobseeker's allowance as the result of a claim being made by that person; and
 - (d) the appeal in relation to the termination decision referred to in sub-paragraph (a) is successful.

Contributions cases

17.—(1) A decision ("the original decision") may be revised where—

- (a) on or after the date of the original decision—

⁽⁶⁾ Section 1A was inserted by section 51 of the 2012 Act.

⁽⁷⁾ [S.I. 2010/1907](#).

- (i) a late paid contribution is treated under regulation 5 (treatment of late paid contributions where no consent, connivance or negligence by the primary contributor) of the Social Security (Crediting and Treatment of Contributions and National Insurance Numbers) Regulations 2001 (“the Crediting Regulations”)(**8**) as paid on a date which falls on or before the date on which the original decision was made;
 - (ii) a direction is given under regulation 6 (treatment of contributions paid late through ignorance or error)(**9**) of those Regulations that a late paid contribution is to be treated as paid on a date which falls on or before the date on which the original decision was made; or
 - (iii) an unpaid contribution is treated under regulation 60 (treatment of unpaid contributions where no consent, connivance or negligence by the primary contributor) of the Social Security (Contributions) Regulations 2001(**10**) as paid on a date which falls on or before the date on which the original decision was made; and
- (b) either an award of benefit would have been made or the amount of benefit awarded would have been different.

(2) A decision may be revised where, by virtue of regulation 6C (treatment of Class 3 contributions paid under section 13A of the Act) of the Crediting Regulations(**11**), a contribution is treated as paid on a date which falls on or before the date on which the decision was made.

Other decisions relating to personal independence payment

18.—(1) Where the Secretary of State makes a decision awarding personal independence payment which takes effect immediately after the expiry of an existing award under regulation 33(3) (advance claim for and award of personal independence payment) of the Claims and Payments Regulations 2013, that decision may be revised if the requirements for entitlement are found not to have been met on the date on which the decision takes effect.

(2) A decision that personal independence payment is not payable to a person for any period may be revised where—

- (a) the Secretary of State determines that the person meets the condition in section 85(2) of the 2012 Act (care home residents where the costs of qualifying services are borne out of local or public funds) on incomplete evidence in accordance with regulation 39(5); and
- (b) after that determination is made, any of the costs of the qualifying services are recovered from the person for whom they are provided.

(3) A decision of the Secretary of State made in consequence of a negative determination(**12**) may be revised at any time if it contains an error to which the claimant did not materially contribute.

Other decisions relating to universal credit

19.—(1) Where the Secretary of State has reduced the amount of an award of universal credit as a consequence of regulation 81 (reduction of universal credit) of the Universal Credit Regulations, that decision may be revised.

(2) A decision in relation to universal credit which adopts a determination made under the Rent Officers Order 2013 may be revised at any time in consequence of a rent officer’s redetermination

(**8**) [S.I. 2001/769](#). Regulation 5 was amended by [S.I. 2008/1554](#) and [S.I. 2002/2366](#).

(**9**) [S.I. 2001/769](#). Regulation 6 was amended by [S.I. 2002/2366](#).

(**10**) [S.I. 2001/1004](#). Regulation 60 was amended by [S.I. 2002/2366](#) and [S.I. 2007/1056](#).

(**11**) Regulation 6C was inserted by [S.I. 2009/659](#).

(**12**) See section 80(6) of the 2012 Act for the meaning of “negative determination”.

made under that Order which resulted in an increase in the amount which represents rent for the purposes of calculating the housing costs element in universal credit.

CHAPTER 3

PROCEDURE AND EFFECTIVE DATE

Procedure for making an application for a revision

20.—(1) The Secretary of State may treat an application for a supersession under section 10 of the 1998 Act as an application for a revision under section 9 of that Act.

(2) The following paragraph applies where the Secretary of State, in order to consider all the issues raised by the application, requires further evidence or information from a person who has applied for a revision (“the applicant”).

(3) The Secretary of State must notify the applicant that—

- (a) the further evidence or information specified in the notification is required;
- (b) if the applicant provides the relevant evidence or information within one month of the date of notification or such longer period as the Secretary of State may allow, the decision may be revised taking such evidence or information into account; and
- (c) if the applicant does not provide such evidence or information within that period, the decision may be revised using such evidence or information as was submitted with the application for revision.

Effective date of a revision

21. Where, on a revision under section 9 of the 1998 Act, the Secretary of State decides that the date from which the decision under section 8 or 10 of that Act (“the original decision”) took effect was wrong, the revision takes effect from the date from which the original decision would have taken effect had the error not been made.