
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 3

SUPERSESIONS

CHAPTER 3

EFFECTIVE DATES FOR SUPERSESIONS

Effective dates: tribunal cases

37.—(1) This paragraph applies where—

- (a) the Secretary of State supersedes a decision of the First-tier Tribunal or the Upper Tribunal on the ground that it is made in ignorance of, or based on a mistake as to, a material fact in accordance with regulation 31(a) (tribunal decisions), and
- (b) as a result of that ignorance or mistake, the decision to be superseded was more advantageous to the claimant than it would otherwise have been.

(2) In a case where paragraph (1) applies where the decision relates to—

- (a) a jobseeker's allowance;
- (b) personal independence payment,

the superseding decision takes effect from the date on which the decision of the First-tier Tribunal or the Upper Tribunal took, or was to take, effect.

(3) In a case where paragraph (1) applies and the decision relates to an employment and support allowance or universal credit where—

- (a) the material fact does not relate to a limited capability for work determination embodied in or necessary to the decision; or
- (b) the material fact does relate to such a determination and the Secretary of State is satisfied that at the time the decision was made the claimant knew or could reasonably be expected to know of it and that it was relevant,

the superseding decision takes effect from the first day of the benefit week or (as the case may be) the assessment period in which in the Tribunal's decision took or was to take effect.

(4) Where the Secretary of State supersedes a decision of the First-tier Tribunal or the Upper Tribunal in accordance with regulation 31(b) (tribunal decisions), the decision takes effect—

- (a) if the decision relates to personal independence payment, from the date on which the decision of the First-tier Tribunal or the Upper Tribunal would have taken effect had it been decided in accordance with the determination of the Upper Tribunal or the court in the appeal referred to in section 26(1)(b) of the 1998 Act;

- (b) if the decision relates to a jobseeker's allowance or an employment and support allowance, from the first day of the benefit week in which the Tribunal's decision would have taken effect had it been so decided;
 - (c) if the decision relates to universal credit, from the first day of the assessment period in which the Tribunal's decision would have taken effect had it been so decided.
- (5) Paragraph (6) applies where—
- (a) the Upper Tribunal, or the court as defined in section 27(7) (restrictions on entitlement to benefit in certain cases of error) of the 1998 Act, determines an appeal as mentioned in subsection (1)(a) of that section (“the relevant determination”);
 - (b) the Secretary of State makes a decision of the kind specified in subsection (1)(b) of that section;
 - (c) there is an appeal against the relevant determination;
 - (d) after the Secretary of State's decision, payment is suspended in accordance with regulation 44 (suspension in prescribed cases); and
 - (e) on appeal a court, within the meaning of section 27, reverses the relevant determination in whole or part.
- (6) A consequential decision by the Secretary of State under section 10 of the 1998 Act which supersedes an earlier decision of the Secretary of State under paragraph (5)(b) takes effect from the date on which the earlier decision took effect.