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 STATUTORY INSTRUMENTS
 

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1982 No. 1241

## SOCIAL SECURITY

**The Social Security (Claims and Payments) Amendment Regulations 1982**

<i>Made - - - -</i>	31st August 1982
<i>Laid before Parliament</i>	13th September 1982
<i>Coming into Operation</i>	4th October 1982

The Secretary of State for Social Services, in exercise of the powers conferred by sections 81 and 146(5) of the Social Security Act 1975 (a) and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee (b), hereby makes the following regulations:—

*Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Social Security (Claims and Payments) Amendment Regulations 1982 and shall come into operation on 4th October 1982.

(2) In these regulations, “the principal regulations” means the Social Security (Claims and Payments) Regulations 1979 (c).

*Amendment of regulation 16 of the principal regulations*

2. At the beginning of regulation 16(1) of the principal regulations (time and manner of payment of certain pensions and allowances) before the words “This regulation” there is inserted “Except where benefit is payable in accordance with regulation 16A”.

*Insertion of new regulation 16A in the principal regulations*

3. After regulation 16 of the principal regulations there is inserted the following new regulation:—

*“Payment of certain benefits by direct credit transfer*

**16A.**—(1) Subject to the provisions of this regulation, any benefit specified in paragraph (2) may, on the claimant’s application and with the consent of the Secretary of State, be paid by way of automated or other direct credit transfer into a bank account or other account—

- (a) in the name of the beneficiary, or his spouse, or a person authorised to receive benefit on behalf of the beneficiary, or
- (b) in the joint names of the beneficiary and his spouse, or of the beneficiary and a person authorised to receive benefit on his behalf.

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(a) 1975 c.14; section 81 was extended by section 4(4) of the Social Security Act 1980 (c.30) and section 146(5) was amended by section 3 of, and paragraph 3(b) of Schedule 1 to, the Social Security Act 1981 (c.33).

(b) See sections 9 and 10 of the Social Security Act 1980.

(c) S.I. 1979/628, to which there are amendments not relevant to these regulations.

(2) The following benefits (including, where appropriate, increases of them) are benefits specified for the purposes of paragraph (1)—

- (a) retirement pension of any category;
- (b) widow's benefit (which in this regulation means a widowed mother's allowance under section 25 of the Act, a widow's pension under section 26, and benefit by virtue of section 39(4) corresponding to a widow's pension or a widowed mother's allowance);
- (c) child's special allowance;
- (d) attendance allowance;
- (e) mobility allowance;
- (f) industrial death benefit except where it is being paid at the rate referred to in section 68(1) of the Act;
- (g) age addition if payable together with any benefit which is also paid under the provisions of this regulation.

(3) An application for benefit to be paid in accordance with paragraph (1)—

- (a) shall be in writing on a form approved for the purpose by the Secretary of State or in such other manner, being in writing, as he may accept as sufficient in the circumstances; and
- (b) shall contain a statement or be accompanied by a written statement made by the applicant declaring that he has read and understood the conditions applicable to payment of benefit in accordance with this regulation and in particular that he has understood the effect that paragraph (8) would have in the event of any overpayment of benefit.

(4) Benefit shall be paid in accordance with paragraph (1) within 7 days of the last day of each successive period of entitlement of 4 or 13 weeks as may be provided in the application.

(5) Paragraphs (10) to (12) of regulation 16 shall apply to payment of benefit under this regulation as if the reference in each such paragraph to the appropriate day of the week for payment were a reference to—

- (a) if the benefit is mobility allowance, Wednesday,
- (b) if, when the application for payment under this regulation is accepted, benefit is already being paid weekly, the day of the week on which it is being so paid,
- (c) in any other case, the day of the week specified in paragraphs (5) to (8) of regulation 16 in relation to the benefit in question,

and in each of those paragraphs as so applied the expression "the next such appropriate day" shall be construed accordingly.

(6) In respect of benefit which is the subject of an arrangement for payment under this regulation, the Secretary of State may make a particular payment by credit transfer otherwise than is provided by paragraph (4) if it appears to him appropriate to do so for the purpose of—

- (a) paying any arrears of that benefit, or
- (b) co-ordinating periodic crediting in respect of different benefits, or in respect of a benefit and an increase thereof, or

- (c) making a payment in respect of a terminal period of an award, or of the period covered by the arrangement, where that terminal period is one of less than 4 weeks or 13 weeks, whichever is applicable under the arrangement,

or for any similar purpose.

(7) The arrangement to receive benefit in accordance with this regulation may be terminated—

- (a) by the beneficiary or a person acting on his behalf by notice in writing delivered or sent to an office of the Department of Health and Social Security, or
- (b) by the Secretary of State if the arrangement seems to him to be no longer appropriate to the circumstances of the particular case.

(8) In relation to payments of benefit which in pursuance of this regulation have been credited to a bank or other account under an arrangement made with the agreement of the beneficiary, if in respect of that arrangement he made a statement in accordance with paragraph (3) that he had read and understood the conditions applicable to payment of benefit in accordance with this regulation, section 119 of the Act shall have effect as if sub-section (2) and the words in sub-section (2A) from “unless it is shown” to the end of that sub-section, (repayment of overpaid benefit not required where due care and diligence to avoid overpayment is shown), were omitted.

(9) Where the Secretary of State certifies that it appears to him—

- (a) that an overpayment or any specified part thereof is not materially due to the arrangement to receive benefit provided for in this regulation; or
- (b) that in the particular circumstances of the case it would be inappropriate to apply the provisions of paragraph (8) to an overpayment or any specified part thereof,

the question whether repayment of the overpayment or, as the case may be, the specified part of the overpayment is required shall be determined in accordance with section 119 of the Act without the application of paragraph (8) of this regulation.”.

*Amendment of regulation 19 of the principal regulations*

4. In regulation 19 of the principal regulations (time and manner of payment of age addition) after paragraph (4) there is inserted the following new paragraph:—

“(5) This regulation shall not apply in any case where benefit is payable in accordance with the provisions of regulation 16A.”.

*Amendment of the Mobility Allowance Regulations 1975*

5. At the end of regulation 9 of the Mobility Allowance Regulations 1975 (a) (time and manner of payment of allowance) after paragraph (8) there is added the following new paragraph:—

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(a) S.I. 1975/1573, to which there are amendments not relevant to these regulations.

“(9) This regulation shall not apply in any case where benefit is payable in accordance with the provisions of regulation 16A of the Social Security (Claims and Payments) Regulations 1979 (payment of certain benefits by direct credit transfer).”.

*Repayment of benefit paid to a person on behalf of a beneficiary*

6.—(1) At the end of regulation 14A of the Social Security (General Benefit) Regulations 1974(a), the following paragraph is added—

“(6) In a case where payments within paragraph (1) above have been made by way of crediting a bank or other account at the request of the beneficiary, if in relation to those payments regulations made by virtue of section 4(4) of the Social Security Act 1980 modify section 119 of the Social Security Act 1975, paragraph (4) above, and in paragraph (5) above the words after “to whom payment was made”, do not have effect.”.

(2) At the end of regulation 23 of the Mobility Allowance Regulations 1975 (b), the following paragraph is added—

“(4) Paragraph (3) above does not apply to payments of benefit made by way of crediting a bank or other account at the request of the beneficiary if in relation to those payments regulations made by virtue of section 4(4) of the Social Security Act 1980 modify section 119 of the Social Security Act 1975.”.

*Penalties for breach of the principal regulations*

7.—(1) In regulation 31 of the principal regulations (breach of regulations) for “£50” there is substituted “£200” and for “£10 together with a further £10” there is substituted “£20”.

(2) Paragraph (1) has effect only in relation to offences committed after this regulation comes into operation.

*Norman Fowler,*  
Secretary of State for Social Services.

31st August 1982.

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(a) S.I. 1974/2079, inserted by S.I. 1980/1621.

(b) S.I. 1975/1573, to which there are amendments not relevant to these regulations.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These regulations further amend the Social Security (Claims and Payments) Regulations 1979 ("the principal regulations"). Regulation 3 inserts new regulation 16A in the principal regulations concerning the making of arrangements, on a claimant's application but subject to the Secretary of State's consent, for benefit to be paid by way of automated or other direct crediting to a bank or other account at intervals of 4 or 13 weeks.

The new regulation 16A of the principal regulations:

- specifies persons into whose accounts or joint accounts benefit may be credited and the benefits within the scope of the regulation (paragraphs (1) and (2));
- provides for the manner in which applications are to be made and requires an applicant to declare that he has read and understood the conditions applicable — so ensuring that he becomes aware of the effect that paragraph (8) would have in the event of overpayment of benefit (paragraph (3));
- makes provision for payment by crediting at intervals of 4 or 13 weeks, commencement dates, effective dates for benefit rate changes, terminal payments and the termination of direct credit arrangements (paragraphs (4) to (7));
- modifies section 119 of the Social Security Act 1975, sub-sections (2) and (2A) of which provide that overpaid benefit is not recoverable where it is shown that the beneficiary and any person acting for him exercised due care and diligence to avoid overpayment; paragraph (8) removes this restriction on recovery where the overpayment occurred in the course of direct crediting under the regulation following a declaration made in accordance with paragraph (3); section 119 applies, however, in its unmodified form where the Secretary of State issues a certificate to that effect (paragraph (9)).

Regulations 2, 4, 5 and 6 make amendments, consequent upon the new regulation 16A, to other provisions of the principal regulations and to provisions of the Mobility Allowance Regulations 1975 and the Social Security (General Benefit) Regulations 1974.

Regulation 7 increases the maximum fine which can be imposed for an offence against the provisions of the principal regulations from £50 to £200 and, where the offence is of a continuing nature, from £10 to £20 for each day the offence continues.

The Report of the Social Security Advisory Committee, dated 2nd June 1982 on the draft of these Regulations referred to them, together with a statement showing why the Regulations give effect to the Committee's recommendations only in part is contained in Command Paper (Cmnd. 8656) published by Her Majesty's Stationery Office.

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