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STATUTORY INSTRUMENTS

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**1987 No. 1968**

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

**PART IV**

**THIRD PARTIES**

**Persons unable to act**

**33.—(1) Where—**

- (a) a person is, or is alleged to be, entitled to benefit, whether or not a claim for benefit has been made by him or on his behalf; and
- (b) that person is unable for the time being to act; and either
- (c) no [<sup>F1</sup>deputy] has been appointed by the Court of Protection [<sup>F2</sup>under Part 1 of the Mental Capacity Act 2005 or receiver appointed under Part 7 of the Mental Health Act 1983 but treated as a deputy by virtue of the Mental Capacity Act 2005] with power to claim, or as the case may be, receive benefit on his behalf; or
- (d) in Scotland, his estate is not being administered by any [<sup>F3</sup>a judicial factor or any guardian acting or appointed under the Adults with Incapacity (Scotland) Act 2000 who has power to claim or, as the case may be, receive benefit on his behalf],

the Secretary of State [<sup>F4</sup>or the Board] may, upon written application made to him [<sup>F5</sup>or them] by a person who, if a natural person, is over the age of 18, appoint that person to exercise, on behalf of the person who is unable to act, any right to which that person may be entitled and to receive and deal on his behalf with any sums payable to him.

[<sup>F6</sup>[<sup>F7</sup>(1A) Where a person has been appointed under regulation 82(3) of the Housing Benefit Regulations 2006 or regulation 63(3) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 by a relevant authority within the meaning of those Regulations to act on behalf of another in relation to a benefit claim or award, the Secretary of State may, if the person agrees, treat him as if he had appointed him under paragraph (1).]]

(2) Where the Secretary of State has made [<sup>F8</sup>or the Board have made] an appointment[<sup>F9</sup>, or treated an appointment as made,] under paragraph (1)—

- (a) he [<sup>F10</sup>or they] may at any time revoke it;
- (b) the person appointed may resign his office after having given one month's notice in writing to the Secretary of State [<sup>F11</sup>or the Board] of his intention to do so;
- (c) any such appointment shall terminate when the Secretary of State is notified [<sup>F12</sup>or the Board are notified] that a receiver or other person to whom paragraph (1)(c) or (d) applies has been appointed.

(3) Anything required by these regulations to be done by or to any person who is for the time being unable to act may be done by or to the receiver, [<sup>F13</sup>judicial factor or] guardian, if any, or by or to the person appointed under this regulation or regulation 43 [<sup>F14</sup>(disability living allowance

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for a child)] and [<sup>F15</sup>a direct credit transfer under regulation 21 into the account of any person so appointed, or the receipt by him of a payment made by some other means,] shall be a good discharge to the Secretary of State [<sup>F16</sup>or the Board] for any sum paid.

#### Textual Amendments

- F1** Word in reg. 33(1)(c) substituted (24.9.2007) by [The Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2007 \(S.I. 2007/2470\)](#), regs. 1, **2(14)**
- F2** Words in reg. 33(1)(c) inserted (24.9.2007) by [The Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2007 \(S.I. 2007/2470\)](#), regs. 1, **2(14)**
- F3** Words in reg. 33(1)(d) substituted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **7(7)(a)**
- F4** Words in reg. 33(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), 20, **Sch. Pt. I**
- F5** Words in reg. 33(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), 23, **Sch. Pt. IV**
- F6** Reg. 33(1A) substituted (1.4.2013) by [The Council Tax Benefit Abolition \(Consequential Provision\) Regulations 2013 \(S.I. 2013/458\)](#), reg. 1, **Sch. 2 para. 2**
- F7** Reg. 33(1A) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **7(7)(b)**
- F8** Words in reg. 33(2) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), **15(a)**
- F9** Words in reg. 33(2) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **7(7)(c)**
- F10** Words in reg. 33(2) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), 22, **Sch. Pt. III**
- F11** Words in reg. 33(2) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), 20, **Sch. Pt. I**
- F12** Words in reg. 33(2) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), **15(b)**
- F13** Words in reg. 33(3) substituted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **7(7)(d)**
- F14** Words in reg. 33(3) substituted (3.2.1992) by [The Social Security \(Claims and Payments\) Amendment Regulations 1991 \(S.I. 1991/2741\)](#), regs. 1(1), **16**
- F15** Words in reg. 33(3) substituted (23.10.2002) by [The Social Security \(Claims and Payments and Miscellaneous Amendments\) \(No. 2\) Regulations 2002 \(S.I. 2002/2441\)](#), regs. 1(1)(a), **8** (with reg. 15)
- F16** Words in reg. 33(3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), 20, **Sch. Pt. I**

#### Payment to another person on the beneficiary's behalf

34.—<sup>F17</sup>(1) [<sup>F18</sup>Except in a case to which paragraph (2) applies,] the Secretary of State [<sup>F19</sup>or the Board] may direct that benefit shall be paid, wholly or in part, to [<sup>F20</sup>another natural person] on the beneficiary's behalf if such a direction as to payment appears to the Secretary of State [<sup>F19</sup>or the Board] to be necessary for protecting the interests of the beneficiary, or any child or dependant in respect of whom benefit is payable.

<sup>F21</sup>(2) The Secretary of State may direct that a joint-claim jobseeker's allowance shall be paid wholly or in part to a natural person who is not the member of the joint-claim couple who is the nominated member for the purposes of section 3B of the Jobseekers Act if such a direction as to payment appears to the Secretary of State to be necessary for protecting the interests of the other member of that couple or, as the case may be, both members of that couple.]

#### Textual Amendments

- F17** Reg. 34(1): reg. 34 renumbered as reg. 34(1) (19.3.2001) by [The Social Security \(Joint Claims: Consequential Amendments\) Regulations 2000 \(S.I. 2000/1982\)](#), regs. 1, **2(8)**
- F18** Words in reg. 34(1) inserted (19.3.2001) by [The Social Security \(Joint Claims: Consequential Amendments\) Regulations 2000 \(S.I. 2000/1982\)](#), regs. 1, **2(8)(a)**
- F19** Words in reg. 34 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), 20, **Sch. Pt. I**
- F20** Words in reg. 34(1) substituted (4.1.1993) by [The Social Security \(Miscellaneous Provisions\) Amendment \(No. 2\) Regulations 1992 \(S.I. 1992/2595\)](#), regs. 1(1)(b), **5**
- F21** Reg. 34(2) added (19.3.2001) by [The Social Security \(Joint Claims: Consequential Amendments\) Regulations 2000 \(S.I. 2000/1982\)](#), regs. 1, **2(8)(b)**

#### <sup>F22</sup>**Deductions of mortgage interest which shall be made from benefit and paid to qualifying lenders**

**34A.**—(1) [<sup>F23</sup>In relation to cases to which section 15A(1) [<sup>F24</sup>or, subject to paragraph (1A), section 15A(1A)] of the Social Security Administration Act 1992] (payment out of benefit of sums in respect of mortgage interest etc.) applies and in the circumstances specified in Schedule 9A, such part of any relevant benefits to which a relevant beneficiary is entitled as may be specified in that Schedule shall be paid by the Secretary of State directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of that mortgage interest [<sup>F25</sup>or, insofar as the payment exceeds that liability, in accordance with paragraph 4A of that Schedule.]

[<sup>F26</sup>(1A) Paragraph (1) shall only apply in relation to a relevant beneficiary who is entitled to state pension credit where he is entitled to a guarantee credit.]

[<sup>F27</sup>(2) The provisions of Schedule 9A shall have effect in relation to payments made under this regulation.]]

#### Textual Amendments

- F22** Reg. 34A inserted (25.5.1992 for specified purposes and with effect in accordance with reg. 001(03) (04)) by [The Social Security \(Claims and Payments\) Amendment Regulations 1992 \(S.I. 1992/1026\)](#), reg. 1(3)(4), **3**
- F23** Words in reg. 34A(1) substituted (7.4.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(a), **12**
- F24** Words in reg. 34A substituted (7.4.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), regs. 1(1)(a), **5(2)(a)**
- F25** Words in reg. 34A(1) inserted (8.4.2010) by [The Social Security \(Claims and Payments\) Amendment Regulations 2010 \(S.I. 2010/796\)](#), regs. 1, **2(2)(a)**
- F26** Reg. 34A(1A) inserted (7.4.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), regs. 1(1)(a), **5(2)(b)**

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**F27** Reg. 34A(2) substituted (8.4.2010) by [The Social Security \(Claims and Payments\) Amendment Regulations 2010 \(S.I. 2010/796\)](#), regs. 1, **2(2)(b)**

**[<sup>F28</sup>Deductions of mortgage interest which may be made from benefits and paid to qualifying lenders in other cases**

**34B.**—(1) In relation to cases to which section 15A(1A) of the Social Security Administration Act 1992 applies (other than those referred to in regulation 34A(1A))—

- (a) in the circumstances specified in paragraph 2A(1) of Schedule 9A: and
- (b) in either of the further circumstances specified in paragraph 2A(2) of that Schedule,

such part of any relevant benefits to which a relevant beneficiary is entitled as may be specified in that Schedule may be paid by the Secretary of State directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of that interest [<sup>F29</sup>or, insofar as the payment exceeds that liability, in accordance with paragraph 4A of that Schedule.]

[<sup>F30</sup>(2) The provisions of Schedule 9A shall have effect in relation to payments made under this regulation.]]

**Textual Amendments**

- F28** Reg. 34B inserted (7.4.2003) by [The State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) \(No. 2\) Regulations 2002 \(S.I. 2002/3197\)](#), regs. 1(1)(a), **5(3)**
- F29** Words in reg. 34B(1) inserted (8.4.2010) by [The Social Security \(Claims and Payments\) Amendment Regulations 2010 \(S.I. 2010/796\)](#), regs. 1, **2(2)(a)**
- F30** Reg. 34B(2) substituted (8.4.2010) by [The Social Security \(Claims and Payments\) Amendment Regulations 2010 \(S.I. 2010/796\)](#), regs. 1, **2(2)(b)**

**[<sup>F31</sup>[<sup>F32</sup>Deductions which may be made from benefit and paid to third parties]**

**35.**—(1) [<sup>F33</sup>Except as provided for in regulation 34A and Schedule 9A, deductions] may be made from benefit and direct payments may be made to third parties on behalf of a beneficiary in accordance with the provisions of Schedule 9 [<sup>F34</sup>and Schedule 9B].

(2) Where a social fund payment for maternity or funeral expenses [<sup>F35</sup>or expenses for heating which appear to the Secretary of State to have been or to be likely to be incurred in cold weather] is made, wholly or in part, in respect of a debt which is, or will be, due to a third person, the [<sup>F36</sup>payment may be, and in the case of funeral expenses shall be, made to that person and where an instrument of payment is made payable to that person it may be sent to the beneficiary].]

**Textual Amendments**

- F31** Reg. 35 substituted (11.4.1988) by [The Social Security \(Claims and Payments\) Amendment Regulations 1988 \(S.I. 1988/522\)](#), regs. 1(1), **7**
- F32** Reg. 35 heading substituted (25.5.1992 for specified purposes and with effect in accordance with reg. 1(3)(4)) by [The Social Security \(Claims and Payments\) Amendment Regulations 1992 \(S.I. 1992/1026\)](#), reg. 1(3)(4), **4**
- F33** Words in reg. 35(1) substituted (25.5.1992 for specified purposes and with effect in accordance with reg. 1(3)(4)) by [The Social Security \(Claims and Payments\) Amendment Regulations 1992 \(S.I. 1992/1026\)](#), reg. 1(3)(4), **4**
- F34** Words in reg. 35(1) inserted (31.1.2001) by [The Social Security \(Claims and Payments\) Amendment Regulations 2001 \(S.I. 2001/18\)](#), regs. 1(1), **2(a)**

- F35** Words in reg. 35(2) inserted (7.11.1988) by [The Social Security \(Common Provisions\) Miscellaneous Amendment Regulations 1988 \(S.I. 1988/1725\)](#), regs. 1(1), **3(7)**
- F36** Words in reg. 35(2) substituted (8.4.2003) by [The Social Security \(Claims and Payments and Miscellaneous Amendments\) \(No. 2\) Regulations 2002 \(S.I. 2002/2441\)](#), regs. 1(1)(c), **9** (with reg. 15)

**[<sup>F37</sup>Transitional provisions for persons in hostels or certain residential accommodation**

<sup>F38</sup>**35A].** . . . . .

**Textual Amendments**

- F37** Reg. 35A inserted (9.10.1989) by [The Social Security \(Medical Evidence, Claims and Payments\) Amendment Regulations 1989 \(S.I. 1989/1686\)](#), **regs. 1, 6**
- F38** Reg. 35A omitted (24.10.2005) by virtue of [The Social Security \(Care Homes and Independent Hospitals\) Regulations 2005 \(S.I. 2005/2687\)](#), regs. 1, **13(2)**

**Payment to a partner as alternative payee**

**36.**—[<sup>F39</sup>(1)] [<sup>F40</sup>Except where a wife has elected in accordance with regulation 6A of the Social Security (Guardian’s Allowances) Regulations 1975 (prescribed manner of making an election under section 77(9) of the Social Security Contributions and Benefits Act 1992) that guardian’s allowance is not to be paid to her husband,] where one of a married or unmarried couple residing together is entitled to child benefit[<sup>F41</sup>, [<sup>F42</sup>[<sup>F43</sup>working families’ tax credit], [<sup>F44</sup>disabled persons’ tax credit] or guardian’s allowance]] the Secretary of State [<sup>F45</sup>or the Board] may make arrangements whereby that benefit, as well as being payable to the person entitled to it, may, in the alternative, be paid to that person’s partner on behalf of the person entitled.

[<sup>F46</sup>(2) Where a person is entitled to a winter fuel payment within the meaning of the Social Fund Winter Fuel Payment Regulations 2000 and—

- (a) that person is one [<sup>F47</sup>member of a] couple or a member of a polygamous marriage;
- (b) the other member of that couple or another member of that marriage (“the other person”) is in receipt of income support[<sup>F48</sup>, an income-based jobseeker’s allowance or an income-related employment and support allowance]; and
- (c) both members of the couple or marriage are living together within the meaning of regulation 1(3)(b) of those Regulations,

the Secretary of State may pay the winter fuel payment to the other person on behalf of the person entitled to the payment as an alternative to paying the person entitled notwithstanding that [<sup>F49</sup>in the qualifying week the other person has not yet attained the qualifying age].]

**Textual Amendments**

- F39** Reg. 36(1): reg. 36 renumbered as reg. 36(1) (2.11.2002) by [The Social Security \(Claims and Payments and Miscellaneous Amendments\) \(No. 3\) Regulations 2002 \(S.I. 2002/2660\)](#), regs. 1, **2(3)**
- F40** Words in reg. 36 inserted (20.9.1999) by [The Social Security \(Claims and Payments\) Amendment Regulations 1999 \(S.I. 1999/2358\)](#), regs. 1, **2(6)(a)**
- F41** Words in reg. 36 substituted (10.3.1992) by [The Social Security \(Claims and Payments\) Amendment Regulations 1991 \(S.I. 1991/2741\)](#), **regs. 1, 17**
- F42** Words in reg. 36 substituted (20.9.1999) by [The Social Security \(Claims and Payments\) Amendment Regulations 1999 \(S.I. 1999/2358\)](#), regs. 1, **2(6)(b)**

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- F43** Words in reg. 36 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), 24, **Sch. Pt. V**
- F44** Words in reg. 36 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), 25, **Sch. Pt. VI**
- F45** Words in reg. 36 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), 20, **Sch. Pt. I**
- F46** Reg. 36(2) added (2.11.2002) by [The Social Security \(Claims and Payments and Miscellaneous Amendments\) \(No. 3\) Regulations 2002 \(S.I. 2002/2660\)](#), regs. 1, **2(3)**
- F47** Words in reg. 36(2)(a) substituted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 3 para. 14(8)** (with art. 3)
- F48** Words in reg. 36(2)(b) substituted (27.7.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **23**
- F49** Words in reg. 36(2) substituted (6.4.2010) by [The Social Security \(Equalisation of State Pension Age\) Regulations 2009 \(S.I. 2009/1488\)](#), regs. 1, **6(2)**

**Claims for and payment of attendance allowance where section 35(2B) of the Act applies to a child**

<sup>F50</sup>**36A.** .....

- Textual Amendments**
- F50** Reg. 36A omitted (6.4.1992) by [The Social Security \(Claims and Payments\) Amendment Regulations 1991 \(S.I.1991/2741\)](#), **regs. 1(1)(c)**, 18.

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