
STATUTORY INSTRUMENTS

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 [^{F1}deputy] has been appointed by the Court of Protection [^{F2}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 [^{F3}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 [^{F4}or the Board] may, upon written application made to him [^{F5}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.

[^{F6}[^{F7}(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).]]

[^{F8}(1B) Where a natural person over the age of 18 has been appointed by the Scottish Ministers under a qualifying appointment pursuant to the 2018 Scotland Act in connection with the determination of assistance under section 24 of that Act (whether or not including an appointment to receive assistance on behalf of the individual), the Secretary of State may, if the person agrees, treat that person as if she had appointed them under paragraph (1).

(1C) In paragraph (1B), a qualifying appointment means—

- (a) an appointment made under section 58(1) of the 2018 Scotland Act in a case where section 58(4) of that Act applies, or
- (b) an appointment made under section 85B(1) of the 2018 Scotland Act in a case where section 85B(7) of that Act applies.]

(2) Where the Secretary of State has made [^{F9}or the Board have made] an appointment[^{F10}, or treated an appointment as made,] under paragraph (1)–

- (a) he ^{F11}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 ^{F12}or the Board] of his intention to do so;
- (c) any such appointment shall terminate when the Secretary of State is notified ^{F13}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, ^{F14}judicial factor or] guardian, if any, or by or to the person appointed under this regulation or regulation 43 ^{F15}(disability living allowance for a child)] and ^{F16}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 ^{F17}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** Reg. 33(1B)(1C) inserted (26.7.2021) by [The Scotland Act 2016 \(Social Security\) \(Consequential Provision\) \(Miscellaneous Amendment\) Regulations 2021 \(S.I. 2021/804\)](#), regs. 1(2), **9(3)**
- F9** 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)**
- F10** 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)**
- 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), 22, **Sch. Pt. III**
- 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), 20, **Sch. Pt. I**
- F13** 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)**
- F14** 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)**
- F15** 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**
- F16** 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)

F17 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**

Changes to legislation:

There are currently no known outstanding effects for the The Social Security (Claims and Payments) Regulations 1987, Section 33.