

1988 No. 1674

**SOCIAL SECURITY**

**The Social Security (Unemployment, Sickness and  
Invalidity Benefit) Amendment (No. 2) Regulations 1988**

*Made - - - - - 28th September 1988*

*Laid before Parliament 6th October 1988*

*Coming into force 7th November 1988*

The Secretary of State for Social Security, in exercise of the powers conferred by sections 15(6) and 17(2)(a) of, and Schedule 20 to, the Social Security Act 1975(a) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make the Regulations should not be referred to it(b), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Unemployment, Sickness and Invalidity Benefit) Amendment (No. 2) Regulations 1988 and shall come into force on 7th November 1988.

(2) In these Regulations, “the principal Regulations” means the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983(c).

**Amendment of regulation 5 of the principal Regulations**

2. In regulation 5(1) of the principal Regulations for the word “unemployment” where it appears for the second time there shall be substituted the word “employment”.

**Amendment of regulation 7 of the principal Regulations**

3.—(1) Regulation 7 of the principal Regulations (days not to be treated as days of unemployment or incapacity for work) shall be amended in accordance with the following paragraphs of this regulation.

(2) For sub-paragraph (b) of paragraph (1) there shall be substituted the following sub-paragraph—

“(b) a day shall not be treated as a day of unemployment in relation to a person if it is a day in respect of which that person—

- (i) is disqualified for receiving unemployment benefit; or
- (ii) has made no claim for unemployment benefit; or
- (iii) has made a claim for unemployment benefit but not within the prescribed time and good cause for the delay is not shown; or
- (iv) has made a claim for unemployment benefit but not within the prescribed time and, whether or not the person has shown good cause for the delay,

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(a) 1975 c.14. Section 15(6) was inserted by paragraph 10 of Schedule 4 to the Social Security and Housing Benefits Act 1982 (c.24). Schedule 20 is cited because of the meaning ascribed to the word “Regulations”.

(b) See sections 9 and 10 of the Social Security Act 1980 (c.30).

(c) S.I. 1983/1598; the relevant amending instrument is S.I. 1984/551.

he is not entitled to benefit as a result of section 165A(2) of the Act (no entitlement to benefit in respect of any period more than 12 months before the date on which a claim is made);”.

(3) For sub-paragraph (c) of paragraph (1) there shall be substituted the following sub-paragraph—

“(c) a day shall not be treated as a day of incapacity for work in relation to a person if it is a day in respect of which that person—

- (i) is disqualified for receiving sickness or invalidity benefit; or
- (ii) has made no claim for sickness or invalidity benefit; or
- (iii) has made a claim for sickness or invalidity benefit but not within the prescribed time and good cause for the delay is not shown; or
- (iv) has made a claim for sickness or invalidity benefit but not within the prescribed time and, whether or not the person has shown good cause for the delay, he is not entitled to benefit as a result of section 165A(2) of the Act;”.

(4) In head (iii) of paragraph (1)(k), before the words “an amount specified” there shall be inserted the words “subject to paragraph (4)”.

(5) After paragraph (3) there shall be added the following paragraph—

“(4) Head (iii) of paragraph (1)(k) shall not apply to any person in respect of a day for which a compensatory award within the meaning of section 72(b) of the Employment Protection (Consolidation) Act 1978(a) is payable to him where such award is not actually paid to him and his former employer is insolvent within the meaning of section 127(b) of the said Act.”.

#### **Amendment of regulation 32 of the principal Regulations**

4. At the end of regulation 32 of the principal Regulations (invalidity pension—restriction on entitlement) there shall be added the following words—

“or has, since the beginning of that period, satisfied the conditions for entitlement to sickness benefit otherwise than by virtue of the provisions of section 50A.”.

Signed by authority of the Secretary of State for Social Security.

28th September 1988.

*Nicholas Scott*  
Minister of State,  
Department of Social Security

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(a) 1978 c.44.

(b) Section 127 was amended by paragraph 31(5) of the Insolvency Act 1985 (c.65) and Schedule 14 of the Insolvency Act 1986 (c.45).

## EXPLANATORY NOTE

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

These Regulations further amend the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983 ("the 1983 Regulations"). Apart from regulations 1, 2 and 3(5) of these Regulations, the remainder are made in consequence of amendments made to the Social Security Act 1975 by the Social Security Act 1986.

Regulation 2 corrects a drafting error in regulation 5(1) of the 1983 Regulations.

The Regulations extend the provisions of the former regulation 7(1)(b) and (c) of the 1983 Regulations by re-enacting those provisions together with additions. These additional provisions provide (regulation 3(2) and (3)) for specified days not to be treated as days of unemployment or incapacity for work where—

- (1) no claim for unemployment, sickness or invalidity benefit, as the case may be, has been made, or
- (2) a claim is made but not within the prescribed time and good cause for the delay is not shown, or
- (3) a claim is made but not within the prescribed period and, whether or not good cause for the delay is shown, there is no entitlement to benefit because the claim is in respect of a period more than twelve months before the date on which the claim is made.

Regulation 3(4) and (5) disapplies part of regulation 7(1)(k) of the 1983 Regulations (see head (iii)) in the case of an insolvent employer who fails to pay to a person a compensatory award within the meaning of section 72(b) of the Employment Protection (Consolidation) Act 1978 (c.44). In any such case, a day which otherwise would not be treated as a day of unemployment in relation to that person for the purposes of unemployment benefit (because such an award was payable), shall for that purpose be a day of unemployment.

Regulation 4 amends regulation 32 of the 1983 Regulations, which restricts a claimant's entitlement to invalidity pension in cases where at the start of the period of incapacity for work he only satisfies the contribution conditions to sickness benefit by virtue of section 50A of the 1975 Act (sickness benefit in respect of industrial injuries). The amended regulation will not now prevent such claimants from becoming entitled to invalidity pension if in the course of the period of incapacity for work they become able to satisfy the contribution conditions to sickness benefit otherwise than under section 50A of the 1975 Act.