STATUTORY INSTRUMENTS

1989 No. 1689

SOCIAL SECURITY

The Social Security (Adjudication) Amendment Regulations 1989

Made	-	-	-	*18th September 1989*
Laid before Parliament				*18th September 1989*
Coming into force	-	-		*9th October 1989*

The Secretary of State for Social Security, in exercise of powers conferred by sections 108, 114 and 166(2) of, and Schedule 20 to the Social Security Act 1975(**1**) and sections 64A(1) and 84(1) of the Social Security Act 1986(**2**) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that the proposals to make these Regulations should not be referred to it(**3**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Adjudication) Amendment Regulations 1989 and shall come into force on 9th October 1989.

(2) In these Regulations "the Adjudication Regulations" means the Social Security (Adjudication) Regulations 1986(**4**).

(**1**)   1975 c. 14. Schedule 20 is cited because of the meaning it ascribes to the words "Prescribe" and "Regulations". Section 108(1) was amended by the Health and Social Security Act 1984 (c. 48) (the 1984 Act), Schedule 4, paragraph 5 and the Social Security Act 1986 (c. 50) (the 1986 Act), Schedule 3, paragraph 14(a). Section 108(2) was substituted by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41) (the 1983 Act), Schedule 8, paragraph 21(1) and amended by the 1984 Act, Schedule 4, paragraph 6. Section 108(3) was amended by the 1983 Act, Schedule 8, paragraph 21(2). Sub-sections (4) and (5) of section 108 were substituted for section 108(4) by the 1983 Act, Schedule 8, paragraph 21(3) and sub-section (4) was amended by the 1983 Act, Schedule 8, paragraph 1(3) (a). Section 108(4A) was inserted by the 1986 Act, Schedule 3, paragraph 14(b). Section 114 was amended by the Employment Protection (Consolidation) Act 1978 (c. 44), Schedule 16, paragraph 19(1) and the 1986 Act, Schedule 5, paragraph 16(a). Section 166(2) is applied to powers conferred by the 1986 Act to make Regulations by section 83(1) of that Act.
(**2**)   1986 c. 50. Section 64A was inserted by section 18 of the Social Security Act 1989 (c. 24). Section 84(1) is cited because of the meaning it ascribes to the words "prescribed" and "regulations".
(**3**)   *See* section 61(1) (b) and (10) of the 1986 Act; section 61(10) is amended by the Social Security Act 1989 (c. 24) Schedule 8, paragraph 12(4).
(**4**)   S.I. 1986/2218, to which the relevant amendments are S.I. 1987/1970 and 1988/1725.

Amendment of regulation 42 of the Adjudication Regulations

2. In paragraph (5) of regulation 42 of the Adjudication Regulations (reference of diagnosis and recrudescence questions for medical report), for the words"If during a period taken into account by an assessment of disablement relating to an award of disablement benefit in respect of a prescribed disease,", there shall be substituted the words"Where the assessed extent of a person's disablement in respect of a prescribed disease amounts to one per cent. or more and during the period taken into account by that assessment,".

Amendment of regulation 53 of the Adjudication Regulations

3. In paragraph (c) of regulation 53 of the Adjudication Regulations (definition of"medical question") for the words"the age of 75" there shall be substituted the words"the age of 80".

Amendment of regulation 64 of the Adjudication Regulations

4.—(1) Regulation 64 of the Adjudication Regulations (income support and social fund questions not immediately determinable) shall be amended in accordance with the following provisions of this regulation.

(2) Paragraph (3)(e) shall cease to have effect.

(3) In paragraph (3)(f) the word"suitable" shall be omitted.

(4) After paragraph (3)(f) there shall be added the following paragraph–

"(g)   whether regulation 10A of the Income Support (General) Regulations 1987(**5**) (circumstances in which a claimant is not required to seek employment actively or is treated as seeking employment actively) applies by virtue of paragraphs (3) or (4) of that regulation.".

Amendment of regulation 69 of the Adjudication Regulations

5.—(1) Regulation 69 of the Adjudication Regulations (review in income support cases) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraph (3) there shall be substituted the following paragraphs–

"(3) Section 64A of the 1986 Act(**6**), (which relates to the effect of alterations in the component rates of income support) shall not apply to any award of income support in force in favour of a person where there is applicable to that person–

(a) any amount determined in accordance with regulation 17(2) to (7) of the Income Support (General) Regulations 1987(**7**); or

(b) any protected sum determined in accordance with Schedule 3A or 3B of those Regulations(**8**); or

(c) any transitional addition, personal expenses addition or special transitional addition applicable under Part II of the Income Support (Transitional) Regulations 1987 (transitional protection)(**9**).

(3A) Where section 64A of the 1986 Act does not apply to an award of income support by virtue of paragraph (3), that award may be reviewed by an adjudication officer, or on a

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(**5**) S.I. 1987/1967, to which the relevant amendment is S.I. 1989/1323.
(**6**) Section 64A was inserted by section 18 of the Social Security Act 1989 (c. 24).
(**7**) S.I. 1987/1967; paragraphs (2)–(7) were added to regulation 17 by S.I. 1988/910, regulation 2.
(**8**) Schedule 3A was inserted by S.I. 1988/1445 and amended by S.I. 1988/2022, 1989/534 and 1678; Schedule 3B was inserted by S.I.1989/534.
(**9**) S.I.1987/1969, to which the relevant amendments are S.I.1988/521 and 670.

reference by him, by an appeal tribunal for the sole purpose of giving effect to any change
made by an order under section 63 of the 1986 Act.".

(3) In paragraph (4)(c) the words"and paragraph (3) shall not apply in any such case" shall be
omitted.

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

Henley
Parliamentary Under-Secretary of State,
Department of Social Security

18th September 1989

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make the following amendments to the Social Security (Adjudication) Regulations 1986–

    (a) regulation 2 enables recrudescence questions to be considered where no award of disablement benefit has been made but disablement has been assessed at 1 per cent. or more;

    (b) regulation 3 alters the age from 75 to 80 in the context of medical questions and mobility allowance as a consequence of the age limit for a mobility allowance being raised from 75 to 80 by section 8 of the Social Security Act 1989;

    (c) regulation 4 removes from regulation 64 (questions not immediately determinable) the provision dealing with seasonal workers (consequential upon the revocation of regulation 43 of the Income Support (General) Regulations 1987 (notional earnings of seasonal workers)), and the word"suitable" from the reference to"suitable employment" (following the omission of references to the suitability of employment in sub-sections (1) and (4) of section 20 of the Social Security Act 1975); it also provides for the determination of a claim for income support where the question whether a person is required to seek employment actively or is to be treated as seeking employment actively cannot be immediately determined; and

    (d) regulation 5 provides that where certain specified amounts are applicable to a claimant for income support, any changes in those amounts are to be taken into account on a review by the adjudicating authorities and section 64A of the Social Security Act 1986 (which applies generally where the component rates of income support are altered) is not to apply to those awards. Section 64A was inserted in the Social Security Act 1986 by the Social Security Act 1989 (c. 24) section 18(1).