
STATUTORY INSTRUMENTS

1991 No. 1878

SOCIAL SECURITY

**The Social Security (Adjudication)
Amendment Regulations 1991**

Made - - - - 19th August 1991
Laid before Parliament 21st August 1991
Coming into force - - 11th September 1991

The Secretary of State for Social Security, in exercise of powers conferred by sections 119(3) and (4) and 166(2) and (3) of, and Schedule 20 to, the Social Security Act 1975(1), and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee(2), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Adjudication) Amendment Regulations 1991 and shall come into force on 11th September 1991.

Amendment of the Social Security (Adjudication) Regulations 1986

2.—(1) The Social Security (Adjudication) Regulations 1986(3) shall be amended in accordance with the following provisions of this regulation.

(2) The following regulation shall be inserted in section D of Part IV immediately before regulation 65 (review of decisions)—

“64A Date from which revised decision has effect on a review

(1) In the case of a review to which either paragraph (2) or paragraph (3) applies, the decision given shall have effect from the date from which the decision being reviewed had effect or from such earlier date as the authority giving the decision being reviewed could have awarded benefit had that authority taken account of the evidence mentioned in paragraph (2) or not overlooked or misconstrued some provision or determination as mentioned in paragraph (3).

(1) 1975 c. 14; section 166(3) was amended by the Social Security Act 1989 (c. 24), Schedule 8, paragraph 10(1); Schedule 20 is cited because of the meaning it ascribes to the word
(2) See the Social Security Act 1980 (c. 30), sections 9 and 10.
(3) S.I. 1986/2218; the relevant amending instruments are S.I. 1987/1424 and 1970 and 1988/1843.

(2) This paragraph applies to a review under subsection (1)(a) of section 104 of the 1975 Act (review for error of fact) of any decision, whether that decision was made before or after the coming into force of this regulation, where the reviewing authority, that is to say the adjudication officer or, as the case may be, the appeal tribunal, is satisfied that—

- (a) the evidence upon which it is relying to revise the decision under review is specific evidence which the authority which was then determining the claim or question had before it at the time of making the decision under review claim or question but which that authority failed to take into account; or
- (b) the evidence upon which it is relying to revise the decision under review is a document or other record containing such evidence which at the time of making the submission to the authority which was then to determine the claim or question, the officer of the Department of Social Security, the Department of Employment or the former Department of Health and Social Security who made the submission had in his possession but failed to submit; or
- (c) the evidence upon which it is relying to revise the decision under review did not exist and could not have been obtained at that time, but was produced to an officer of one of those Departments or to the authority which made that decision as soon as reasonably practicable after it became available to the claimant.

(3) This paragraph applies to a review under subsection (1A) of section 104 of the 1975 Act⁽⁴⁾ (review for error of law) of any decision, whether that decision was made before or after the coming into force of this regulation, where the adjudication officer or, as the case may be, the appeal tribunal, is satisfied that the adjudication officer, in giving the decision under review, overlooked or misconstrued either—

- (a) some provision in an Act of Parliament or in any Order or Regulations; or
- (b) a determination of the Commissioner or the court,

which, had he taken it properly into account, would have resulted in a higher award of benefit or, where no award was made, an award of benefit.

(4) The following provisions of this section, including regulation 69 as continued in force by regulation 13 of the Social Security (Adjudication) Amendment (No. 2) Regulations 1987⁽⁵⁾ and as amended by regulation 10 of those Regulations, are subject to the provisions of this regulation.

(5) In this regulation “court” has the same meaning as it has in section 165D of the Act”.

(3) In regulations 65(3), 69(1), both as continued in force by regulation 13 of the Social Security (Adjudication) Amendment (No. 2) Regulations 1987 and as amended by regulation 10 of those Regulations, and 71, for the words “Subject to regulation 72”, there shall be substituted the words “Except in a case to which regulation 64A(2) or (3) applies”.

(4) At the beginning of regulation 66(1) there shall be inserted the words “Except in a case to which regulation 64A(2) or (3) applies”.

(5) Regulation 72 is hereby revoked.

Saving for pending applications

3. The amendments to the Social Security (Adjudication) Regulations 1986 contained in regulation 2 above shall not apply in the case of any review pursuant to an application for review made before 11th September 1991.

(4) Subsection (1A) was inserted by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 8, paragraph 3.

(5) S.I. 1987/1970.

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

19th August 1991

Nicholas Scott
Minister of State,
Department of Social Security

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend provisions in the Social Security (Adjudication) Regulations 1986 ([S.I. 1986/2218](#)) (“the 1986 Regulations”) relating to the date from which any decision given on review is to have effect.

Regulation 2 provides that in certain specified circumstances a decision given on review is to have effect from the date on which the decision being reviewed would have taken effect if made in the revised form. Regulation 72 of the 1986 Regulations is revoked.

Regulation 3 provides that the changes do not affect pending applications for review.

The Report of the Social Security Advisory Committee dated 7th May 1991 on proposals to make these Regulations together with the statement showing the extent to which the Regulations give effect to them are contained in Command Paper No. 1607 published by Her Majesty’s Stationery Office.