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STATUTORY INSTRUMENTS

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**1992 No. 247**

**The Social Security (Miscellaneous Provisions) Amendment Regulations 1992**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Miscellaneous Provisions) Amendment Regulations 1992 and shall come into force on 9th March 1992.

(2) In these Regulations “Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(1).

**Amendment of the Social Security (Hospital In-Patients) Regulations 1975**

2. In paragraph (3)(b)(ii) of regulation 17 of the Social Security (Hospital In-Patients) Regulations 1975(2) (calculation of periods), after the words “incorporated by Royal Charter” there shall be inserted the words “other than a local social services authority”.

**Amendment of the Social Security (Medical Evidence) Regulations 1976**

3.—(1) The Social Security (Medical Evidence) Regulations 1976(3) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (evidence of incapacity for work and confinement), for the words from “by means of a certificate” to the end there shall be substituted the following words—1

“(a) by means of a certificate in the form of a statement in writing given by a doctor in accordance with the rules set out in Part I of Schedule 1 to these Regulations on the form set out in Part II of that Schedule; or

(b) where a doctor—

(i) has not given a statement under sub-paragraph (a)

of this paragraph since the patient was examined and wishes to give such a statement but more than one day has passed since the examination; or

(ii) advises that the patient should refrain from work on the basis of a written report from another doctor, set out in Part I of Schedule 1A to these Regulations on the form set out in Part II of that Schedule; or

(c) by such other means as may be sufficient in the circumstances of any particular case.”.

(3) After Schedule 1 there shall be inserted the Schedule set out in Schedule 1 to these Regulations.

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(1) S.I. 1987/1968; to which the relevant amendments are S.I. 1988/522 and 1725, 1989/136 and 1686 and 1990/2208.

(2) S.I. 1975/555; to which the relevant amendment is S.I. 1987/1683.

(3) S.I. 1976/615; to which the relevant amending instruments are S.I. 1982/699, 1987/409 and 1989/1686.

#### **Amendment of the Social Security Benefit (Dependency) Regulations 1977**

4.—(1) The Social Security Benefit (Dependency) Regulations 1977(4) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 9A (apportionment of payments by way of occupational pension made otherwise than weekly), for the words “occupational pensions” in both places where they occur there shall be substituted the words “occupational or personal pension”.

(3) In regulation 13(2) (increase of unemployment benefit, sickness benefit and invalidity pension for persons over pensionable age) after the reference “paragraph 1(b)” there shall be inserted a reference “, paragraph 1(d)”.

#### **Amendment of the Statutory Sick Pay (General) Regulations 1982**

5. In regulation 22 of the Statutory Sick Pay (General) Regulations 1982(5) (penalties)—

(a) for paragraph (a) there shall be substituted the following paragraph—1

“(a) for any one offence, level 3 on the standard scale; or”; and

(b) in paragraph (b)—

(i) after the words “continuing any such” there shall be inserted the words “contravention or”, and

(ii) for the sum of “ £20” there shall be substituted a sum of “ £40”.

#### **Amendment of the Statutory Sick Pay (Medical Evidence) Regulations 1985**

6.—(1) The Statutory Sick Pay (Medical Evidence) Regulations 1985(6) shall be amended in accordance with the following provisions of this regulation.

(2) Paragraph (3) of regulation 1 (interpretation of “statement”) is revoked.

(3) For paragraph (1) of regulation 2 (medical information) there shall be substituted the following paragraph—

“(1) Medical information required under section 17(2) of the 1982 Act relating to incapacity for work shall be provided either—

(a) in the form of a statement given by a doctor in accordance with the rules set out in Part I of Schedule 1 to these Regulations on the form set out in Part II of that Schedule; or

(b) where the doctor—

(i) has not given a statement under sub-paragraph (a)

of this paragraph since the patient was examined and wishes to give such a statement but more than one day has passed since the examination; or

(ii) advises that the patient should refrain from work on the basis of a written report from another doctor, set out in Part I of Schedule 1A to these Regulations on the form set out in Part II of that Schedule; or

(c) by such other means as may be sufficient in the circumstances of any particular case.”.

(4) The heading to the Schedule shall be amended by adding a reference to “1” after the word Schedule.

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(4) S.I. 1977/343; to which the relevant amendments are S.I. 1980/827 and 1989/523.

(5) S.I. 1982/894; to which the relevant amending instruments are S.I. 1983/376, 1986/477 and 1987/868.

(6) S.I. 1985/1604.

(5) After Schedule 1 there shall be inserted the Schedule set out in Schedule 2 to these Regulations.

#### **Amendment of the Social Security (Adjudication) Regulations 1986**

7.—(1) The Social Security (Adjudication) Regulations 1986(7) shall be amended in accordance with the following provisions of this regulation.

(2) The following regulation shall be inserted after regulation 64A—

##### **“Review of decisions in cases to which section 104(7) of the 1975 Act applies**

**64B.** In any case to which subsection (7) of section 104 of the 1975 Act applies, the decision given on review shall have effect from the date of the relevant determination within the meaning of that subsection whether the decision which is being reviewed was made before, on or after 9th March 1992”.

(3) In regulations 65(3), 66(1), 69(1), both as continued in force by regulation 13 of the Social Security (Adjudication) Amendment (No. 2) Regulations 1987(8) and as amended by regulation 10 of those Regulations, and 71, after the words “regulation 64A(2) or (3)” there shall be inserted the words “or regulation 64B”.

#### **Amendment of the Statutory Maternity Pay (General) Regulations 1986**

8. In regulation 32 of the Statutory Maternity Pay (General) Regulations 1986(9) (penalties) after the word “regulations” there shall be inserted a reference to “25”.

#### **Amendment of regulation 2 of the Claims and Payments Regulations**

9.—(1) Regulation 2 of the Claims and Payments Regulations (interpretation) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1), in paragraph (c) of the definition of “claim for benefit”, after the words “any increase of benefit” there shall be inserted the words “in respect of a child or adult dependant under the Social Security Act 1975 or an increase in disablement benefit under section 60 (special hardship), 61 (constant attendance), 62 (hospital treatment allowance) or 63 (exceptionally severe disablement) of the Social Security Act 1975”.

(3) In paragraph (3), for the words “every increase of benefit under the Social Security Act 1975” there shall be substituted the words “every increase of benefit in respect of a child or adult dependant under the Social Security Act 1975 or an increase of disablement benefit under sections 60 (special hardship), 61 (constant attendance), 62 (hospital treatment allowance) or 63 (exceptionally severe disablement) of the Social Security Act 1975”.

#### **Amendment of regulation 4 of the Claims and Payments Regulations**

10. In paragraph (1) of regulation 4 of the Claims and Payments Regulations (making a claim for benefit), after the words “on a form approved by the Secretary of State” there shall be inserted the words “for the purpose of the benefit for which the claim is made”.

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(7) S.I. 1986/2218.

(8) S.I. 1987/1970.

(9) S.I. 1986/1960; relevant amending instrument is S.I.1991/2284.

### **Amendment of regulation 8 of the Claims and Payments Regulations**

11. In paragraph (1) of regulation 8 of the Claims and Payments Regulations (attendance in person), after the words “in any particular case” there shall be inserted the words “or class of case”.

### **Amendment of regulation 9 of the Claims and Payments Regulations**

12. After paragraph (6) of regulation 9 of the Claims and Payments Regulations (interchange with claims for other benefits) there shall be added the following paragraph—

“(7) In determining whether he should treat a claim alternatively or in addition to another claim (the original claim) under this regulation the Secretary of State shall treat the alternative or additional claim, whenever made, as having been made at the same time as the original claim”.

### **Amendment of regulation 13 of the Claims and Payments Regulations**

13. At the end of regulation 13(5)(10) of the Social Security (Claims and Payments) Regulations 1987 there shall be added the words “save that in their application to paragraph 4(c) those regulations shall be read as though for the words “not less than 24 hours” there were substituted the words “not less than 16 hours but less than 24 hours””.

### **Amendment of regulation 19 of the Claims and Payments Regulations**

14.—(1) Regulation 19 of the Claims and Payments Regulations (time for claiming benefit) shall be amended in accordance with the following provisions of this regulation.

(2) After paragraph (2) there shall be inserted the following paragraph—

“(2A) In the case of a claim for income support or family credit, where the claimant does not prove that there was good cause for the failure to claim throughout the period specified in paragraph (2) but does prove that there was good cause throughout the period from a date subsequent to the expiry of the prescribed time to the date on which the claim was made, the claim shall be treated as made on—

- (a) that subsequent date if it is not more than 12 months before the date on which the claim was made; or
- (b) in any other case the date 12 months before the date on which the claim was made.”.

(3) In paragraph (6)(a) after the words “child benefit and” there shall be inserted the words “except in a case to which section 165C(3) of the Social Security Act 1975(11) (late claims for widowhood benefits where death is difficult to establish) applies”.

### **Amendment of regulation 21 of the Claims and Payments Regulations**

15.—(1) Regulation 21 of the Claims and Payments Regulations (direct credit transfer) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)—

- (a) for the words “any benefit” there shall be substituted the words “benefit to which this regulation applies”; and
- (b) the words “or other direct” shall be omitted.

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

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(10) Paragraph (5) of regulation 13 was added by S.I.1991/2284.

(11) Section 165C was inserted into the Social Security Act 1975 (c. 14) by section 6 of the Social Security Act 1990 (c. 27).

“(6) This regulation applies to the payment of retirement pension, widow’s pension, widowed mother’s allowance, child benefit, attendance allowance, disability living allowance, disability working allowance, mobility allowance, family credit and any increase of those benefits payable in respect of a child or adult dependant.”.

### **Amendment of regulation 37 of the Claims and Payments Regulations**

**16.** For regulation 37 of the Claims and Payments Regulations there shall be substituted the following regulations—

#### **“Suspension in individual cases**

**37.**—(1) Where it appears to the Secretary of State that a question arises whether—

- (a) the conditions for entitlement are or were fulfilled;
- (b) an award ought to be revised; or
- (c) subject to paragraph (2), an appeal ought to be brought against an award, award be suspended, in whole or in part, pending the determination of that question on review, appeal or reference.

(2) Where it appears to the Secretary of State that a question arises under paragraph (1) (c), he may only give directions that payment of benefit under the award be suspended on or before the relevant date.

(3) A suspension under paragraph (1)(c) shall cease unless, on or before the relevant date, the claimant is given notice in writing that either an appeal or an application or petition for leave to appeal, whichever is appropriate, has been made against that decision.

(4) Where the claimant has been given notice on or before the relevant date that either an appeal or an application or petition for leave to appeal has been made, the suspension may continue until the appeal or the application or the petition and any subsequent appeal have been determined.

(5) In this regulation—

- (a) “relevant date” means a date one month from the date on which notice in writing of the decision resulting in an award is received by the adjudication officer;
- (b) notice of a decision of an adjudicating authority resulting in an award is only received by an adjudication officer when he has received notice in writing of the decision together with the reasons for that decision.

#### **Suspension in identical cases**

**37A.**—(1) Where it appears to the Secretary of State that a question arises in relation to a person’s entitlement to benefit under an award or that an award ought to be revised and the question is the same question which arises in relation to an award made to another person involving the same or another benefit and a question arises whether an appeal ought to be brought against that award, the Secretary of State may direct that payment of benefit under the first-mentioned award shall be suspended, in whole or part, pending determination of that question on appeal brought against the second-mentioned award.

(2) In this regulation “appeal” means an appeal to a Social Security Commissioner, the Court of Appeal, the Court of Session and the House of Lords, and an application for judicial review made in accordance with Order 53 of the Rules of the Supreme Court 1965(12) .

### **Withholding payment of arrears of benefit**

**37B.** Where it appears to the Secretary of State that a question arises whether any amount paid or payable to a person by way of, or in connection with, a claim for benefit is recoverable under section 27 or section 53 of the Social Security Act 1986, or regulations made under either section, he may direct that any payment of arrears of benefit to that person shall be withheld in whole or in part, pending determination of that question.”.

### **Amendment of Schedule 7 to the Claims and Payments Regulations**

**17.—**(1) Schedule 7 to the Claims and Payments Regulations (manner and time of payment, effective date of change of circumstances and commencement of entitlement in income support cases) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (3) of paragraph 6 (commencement of entitlement to income support), the following words shall be added at the end—

“except where income support is paid in advance, when entitlement shall commence on the relevant day, if that day is a day for payment as determined under paragraph 3 but otherwise on the first day for payment after the relevant day.”.

(3) In sub-paragraph (3) of paragraph 7 (date when change of circumstances is to take effect), after paragraph (d) there shall be inserted the following paragraph—

“(dd) a person referred to in paragraph 8 of Schedule 7 to the Income Support Regulations either—

- (i) ceases to be a prisoner, or
- (ii) becomes a prisoner”.