
STATUTORY INSTRUMENTS

2001 No. 1095

SOCIAL SECURITY

The Social Security Commissioners
(Procedure) (Amendment) Regulations 2001

Made - - - - 20th March 2001

Coming into force - - 2nd July 2001

The Lord Chancellor, in exercise of the powers conferred upon him by paragraphs 8 to 10, 19, 20(1) and (3) and 23(1) and (2) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000(1), sections 14 to 16, 28, 79(2), (4) and (6) and 84 of, and Schedules 4 and 5 to, the Social Security Act 1998(2), section 4(2) of the Forfeiture Act 1982(3), and of all other powers enabling him in that behalf, after consultation with the Scottish Ministers, in accordance with section 79(2)(4) of the Social Security Act 1998 and paragraph 20(1) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000, and with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(5), makes the following Regulations, a draft of which has, in accordance with section 80(1) of the Social Security Act 1998, been laid before and approved by resolution of each House of Parliament:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security Commissioners (Procedure) (Amendment) Regulations 2001 and shall come into force on 2nd July 2001.

(2) In these Regulations a reference to a regulation by number alone means the regulation so numbered in the Social Security Commissioners (Procedure) Regulations 1999(6).

-
- (1) 2000 c. 19. Paragraph 23(1) is an interpretation provision and is cited because of the meaning assigned to the word “prescribed”.
- (2) 1998 c. 14. Section 28 was amended by paragraph 34 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 84 is an interpretation provision and is cited because of the meaning assigned to the word “prescribe”.
- (3) 1982 c. 34. Section 4(2) was amended by Article 3 of the Transfer of Functions (Social Security Commissioners) Order 1984 (S.I. 1984/1818).
- (4) The functions of the Lord Advocate under section 79(2) were transferred to the Secretary of State by the Transfer of Functions (Lord Advocate and Secretary of State) Order 1999 (S.I. 1999/678), Article 2(1) and the Schedule. Those functions were then treated as being exercisable in or as regards Scotland, for the purposes of section 63 of the Scotland Act 1998 (c. 46), by the Scotland Act 1998 (Functions Exercisable in or as Regards Scotland) Order 1999 (S.I. 1999/1748), Article 3 and paragraph 19 of Schedule 1, and transferred to the Scottish Ministers by the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750), Article 2 and Schedule 1.
- (5) 1992 c. 53.
- (6) S.I. 1999/1495, as amended by the Social Security Commissioners (Procedure) (Amendments) Regulations 2000 (S.I. 2000/2854).

Amendments to the Social Security Commissioners (Procedure) Regulations 1999

2. In regulation 3(2)(d) for the words “the Act”, in both places that they occur, there shall be substituted the words “the 1998 Act”.

3. In regulation 4—

- (a) at the beginning insert “(1)”;
- (b) in the definition of “the Act” for the words “the Act” there shall be substituted the words “the 1998 Act”;
- (c) after that definition there shall be inserted the following definition—
 - ““the 2000 Act” means the Child Support, Pensions and Social Security Act 2000;”;
- (d) in the definition of “appeal tribunal” for the words “the Act” there shall be substituted the words “the 1998 Act”;
- (e) in the definition of “authorised officer” for the words “the Act” there shall be substituted the words “the 1998 Act”;
- (f) in the definition of “the chairman”, in paragraph (ii), for the words “section 14 of the Act” there shall be substituted the words “section 14 of the 1998 Act or paragraph 8 of Schedule 7 to the 2000 Act”;
- (g) in the definition of “Commissioner” for the words “the Act” there shall be substituted the words “the 1998 Act”;
- (h) after the definition of “party” there shall be inserted the following definition—
 - ““person affected” means, subject to paragraph (2), a person who is a person affected under regulation 3 of the Housing Benefit and Council Tax Benefit (Decision and Appeals) Regulations 2001(7) provided that he is an appellant against the appeal tribunal’s decision or was a party to the appeal tribunal proceedings;”;
- (i) after the definition of “proceedings” there shall be inserted the following definition—
 - ““relevant authority” has the same meaning as in paragraph 1(1) of Schedule 7 to the 2000 Act;”;
- (j) for the definition of “respondent” there shall be substituted the following definition—
 - ““respondent” means—
 - (i) any person or organisation other than the applicant, appellant or person making the reference who is one of the principal parties as defined in section 13 of the 1998 Act,
 - (ii) any other person taking part in the proceedings in accordance with section 14 of the 1998 Act or as a person affected or as a relevant authority or at the direction or with the leave of the Commissioner,
 - (iii) the Secretary of State in any case where he is not otherwise a respondent and has given notice to the Commissioner of his wish to be joined as a party to the proceedings.”; and
- (k) after the definition of “tax credit” there shall be inserted the following—
 - “(2) For the purpose of paragraph 8(2)(c) of Schedule 7 to the 2000 Act “person affected” shall be construed in accordance with regulation 3 of the Housing Benefit and Council Tax Benefit (Decision and Appeals) Regulations 2001 and for the purpose of paragraph 8(3) of Schedule 7 to the 2000 Act “person affected” shall have the meaning given in paragraph (1).”.

4. In regulation 10(3) for the words “by the Secretary of State or the Board, he or they” there shall be substituted the words “by the Secretary of State, the Board or a relevant authority, the applicant”.
5. In regulation 14—
 - (a) in paragraph (1) for the words “the Act” there shall be substituted the words “the 1998 Act”;
 - (b) the following shall be substituted for paragraph (2)—

“(2) Where a forfeiture rule question arises,

 - (a) the Board, in cases concerning tax credits,
 - (b) the relevant authority, in cases concerning housing benefit or council tax benefit, or
 - (c) the Secretary of State, in any other case,

shall refer it to a Commissioner to determine, and shall notify the person in relation to whom the question arises that such a reference has been made.”; and
 - (c) in sub-paragraph (3)(c) for the words “the Secretary of State or the Board” there shall be substituted the words “the Secretary of State, the Board or the relevant authority”.
6. In regulation 15—
 - (a) in paragraph (1)—
 - (i) for the words “Section 16(7) of the Act” there shall be substituted the words “Section 16(7) of the 1998 Act and paragraph 10(5) of Schedule 7 to the 2000 Act”; and
 - (ii) for the words “in relation to an appeal under the Act” there shall be substituted the words “in relation to an appeal under either of those Acts”; and
 - (b) in paragraph (2) for the words “Sections 9 and 10 of the Act” there shall be substituted the words “Sections 9 and 10 of the 1998 Act and paragraphs 3 and 4 of Schedule 7 to the 2000 Act”.
7. In regulation 18 after paragraph (3) there shall be inserted the following paragraph (4)—

“(4) Where there is more than one respondent, the order of and time for written observations shall be as directed by a Commissioner under regulation 20.”.
8. In regulation 19(3) the words “from the respondent” shall be deleted, and for the words “section 14(7) of the Act” there shall be substituted the words “section 14(7) of the 1998 Act or paragraph 8(3) of Schedule 7 to the 2000 Act”.
9. In regulation 21 for the words “the Act” there shall be substituted the words “the 1998 Act”.
10. In regulation 24(6)—
 - (a) in sub-paragraph (d) for the words “the Act” there shall be substituted the words “the 1998 Act”;
 - (b) in sub-paragraph (f) for the words “section 71 or 74” there shall be substituted the words “section 71, 74, 75 or 76” and at the end of the sub-paragraph the word “and” shall be omitted;
 - (c) after sub-paragraph (f) there shall be inserted—

“(ff) in cases concerning housing benefit or council tax benefit, the relevant authority and any person affected; and”.
11. In regulation 28(2) for the words “section 14(7) of the Act” there shall be substituted the words “section 14(7) of the 1998 Act or paragraph 8(3) of Schedule 7 to the 2000 Act”.

12. In regulation 29 for the words “the Secretary of State or the Board” there shall be substituted the words “the Secretary of State, the Board or the relevant authority”.

13. In regulation 32(1) for the words “section 14(7) of the Act” there shall be substituted the words “section 14(7) of the 1998 Act or paragraph 8(3) of Schedule 7 to the 2000 Act”.

14. In regulation 33—

(a) in paragraph (1) for the words “section 15 of the Act” there shall be substituted the words “section 15 of the 1998 Act or paragraph 9 of Schedule 7 to the 2000 Act”;

(b) in paragraph (3)—

(i) after the words “Social Security (Claims and Payments) Regulations 1987” there shall be inserted the words “, regulation 71(2) to (6) of the Housing Benefit (General) Regulations 1987⁽⁸⁾ and regulation 61(2) to (6) of the Council Tax Benefit (General) Regulations 1992⁽⁹⁾”;

(ii) for the words “section 15 of the Act” there shall be substituted the words “section 15 of the 1998 Act and paragraph 9 of Schedule 7 to the 2000 Act”; and

(iii) for the words “as it applies” there shall be substituted “as they apply”; and

(c) the following shall be substituted for paragraph (4)—

“(4) A person in respect of whom a forfeiture rule question arises and

(a) the Board, in cases concerning tax credits,

(b) the relevant authority, in cases concerning housing benefit or council tax benefit,
or

(c) the Secretary of State, in any other case,

shall be authorised to apply for leave to appeal from a Commissioner’s decision on a forfeiture rule question.”.

Signed by authority of the Lord Chancellor

20th March 2001

Jane Kennedy
Parliamentary Secretary,
Lord Chancellor’s Department

⁽⁸⁾ S.I. 1987/1971.

⁽⁹⁾ S.I. 1992/1814; amended by S.I. 1993/688.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security Commissioners (Procedure) Regulations 1999 (S.I.1999/1495). The amendments are in consequence of Schedule 7 to the Child Support, Pensions and Social Security Act 2000 which makes provision for appeals against decisions made in connection with claims for housing benefit and council tax benefit.

The Social Security Commissioners (Procedure) Regulations 1999 were recently amended by the Social Security Commissioners (Procedure) (Amendment) Regulations 2000 (S.I. 2000/2854). The amendments were in consequence of the transfer under the Tax Credits Act 1999 (c. 10) of functions relating to family credit and disability working allowance (now known as working families' tax credit and disabled person's tax credit) from the Department of Social Security to the Treasury and the Board of Inland Revenue.