
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Claims and Payments) Regulations 1987 in respect of benefit payments. They also amend the Social Security and Child Support (Decisions and Appeals) Regulations 1999 (“the Decisions and Appeals Regulations”), the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 and the Child Support (Maintenance Assessment Procedure) Regulations 1992 (“the Maintenance Assessment Procedure Regulations”) in respect of decision making.

Regulation 1 provides for the commencement of these Regulations and in particular in relation to regulation 3(4) and (6) provides that any type of case which is not one in relation to which 3rd March 2003 is the appointed day for the coming into force of section 9 of the Child Support, Pensions and Social Security Act 2000 (c. 19) (“the 2000 Act”), shall come into force on the day that section comes into force in relation to that type of case. In all other cases and for all other provisions in these Regulations, the commencement date is 5th May 2003.

Regulation 2 amends regulation 32(1) of the Social Security (Claims and Payments) Regulations 1987 to clarify the Secretary of State’s power to require information from beneficiaries which might affect a continuing award of benefit, or its payment, and beneficiaries’ duty to notify him of changes of circumstances which might affect a continuing award or its payment.

Regulation 3 amends regulations 1, 3, 6, 6A, 7, and 7B of the Decisions and Appeals Regulations. Regulation 3(1) amends the definition of “out of jurisdiction appeal” to include certain decisions in respect of Housing Benefit and Council Tax Benefit. Regulation 3(2) makes a consequential amendment to the grounds for revision.

Regulation 3(3) amends the ground for supersession on change of circumstances and adds a new ground for the supersession of a decision of an appeal tribunal or of a Commissioner in a case where an appeal has been decided under section 26(4)(b) of the Social Security Act 1998 (c. 14) (“the 1998 Act”) and the Secretary of State has decided to supersede in accordance with section 26(5) of that Act. This regulation also makes minor clarifying amendments. Regulation 3(4) makes amendments to child support provisions which correspond to the amendments made by regulation 3(3)(b) of these Regulations.

Regulation 3(5)(a) to (c) makes minor consequential and clarifying amendments. Regulation 3(5)(d) (substituted paragraph (a)) provides a new effective date specifically for Disability Living Allowance and Attendance Allowance where there is a change to relevant legislation so that the decision takes effect on the date the new legislation takes effect. Regulation 3(5)(e) (new paragraph (30)) mirrors the provision set out in regulation 3(5)(d). This sub-paragraph (new paragraphs (31) and (32)) also provides a new effective date in a case where a “personal capability assessment” is conducted before the “own occupation test” expires. The decision giving effect to the early assessment takes effect on the day immediately following the day on which the own occupation test no longer applies. This sub-paragraph (new paragraph (33)) also provides a new effective date where the Secretary of State supersedes in accordance with section 26(5) of the 1998 Act to give effect to that decision on the date it would have taken effect if the appeal tribunal or the Commissioner had decided in accordance with the determination of the Commissioner or the court. Regulation 3(6) makes amendments to child support provisions which correspond to the amendments made by regulation 3(5)(e) (new paragraph (33)).

Regulation 4 amends regulations 7 and 8 of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 which correspond to the amendments made by regulation 3(3)(a) and (b), (5)(e) (new paragraphs (30) and (33)).

Regulation 5 amends the Maintenance Assessment Procedure Regulations so as to make corresponding provision for child support cases which continue to be dealt with under the Child

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Support Act 1991 prior to its amendment by the 2000 Act and the coming into force of those provisions in any particular case, as the amendments made by regulations 3(4) and 3(6) of these Regulations.

Regulation 6 confirms that these Regulations do not affect the application of the Social Security (Claims and Payments) Regulations 1987 and the Decisions and Appeals Regulations to two specified tax credits.

These Regulations do not impose a charge on business.

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