

2003 No. 2800

SOCIAL SECURITY

The Social Security (Electronic Communications) (Carer's Allowance) Order 2003

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| <i>Made</i> - - - - | <i>3rd November 2003</i> |
| <i>Laid before Parliament</i> | <i>10th November 2003</i> |
| <i>Coming into force</i> - - | <i>1st December 2003</i> |

The Secretary of State for Work and Pensions, considering that the authorisation of the use of electronic communications by this Order for any purpose is such that the extent (if any) to which records of things done for that purpose that will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases, in exercise of the powers conferred upon him by sections 8 and 9 of the Electronic Communications Act 2000(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Social Security (Electronic Communications) (Carer's Allowance) Order 2003 and shall come into force on 1st December 2003.

(2) In this Order—

“the principal Regulations” means the Social Security (Claims and Payments) Regulations 1987(b);

“the Change of Circumstances Regulations” means the Social Security (Notification of Change of Circumstances) Regulations 2001(c).

Amendment of the principal Regulations

2.—(1) In regulation 2(1)(d) of the principal Regulations (interpretation)—

(a) immediately before the definition of “the 2002 Act” there shall be inserted—

““the 2000 Act” means the Electronic Communications Act 2000;”;

(b) after the definition of “disabled person's tax credit” there shall be inserted—

““electronic communication” has the same meaning as in section 15(1) of the 2000 Act;”.

(2) After regulation 4B(e) of the principal Regulations (forwarding claims and information) there shall be inserted—

(a) 2000 c. 7.

(b) S.I. 1987/1968.

(c) S.I. 2001/3252.

(d) Relevant amending instruments are S.I. 1999/2572, S.I. 1999/3178 and S.I. 2002/3019.

(e) Regulation 4B was inserted by S.I. 1999/3108 and amended by S.I. 2002/3019. Regulation 4C was inserted by S.I. 2002/1789 and revoked by S.I. 2003/492.

“Electronic claims for benefit

4ZC.—(1) Any claim for benefit in relation to which this regulation applies, and any certificate, notice, information or evidence given in connection with that claim, may be made or given by means of an electronic communication, in accordance with the provisions set out in Schedule 9ZC.

(2) This regulation applies in relation to carer’s allowance.”.

(3) After regulation 32 of the principal Regulations(a) (information to be given when obtaining payment of benefit) there shall be inserted—

“Information given electronically

32ZA.—(1) Where this regulation applies a person may give any certificate, notice, information or evidence required to be given and in particular may give notice of any change of circumstances required to be notified under regulation 32 by means of an electronic communication, in accordance with the provisions set out in Schedule 9ZC.

(2) This regulation applies in relation to carer’s allowance.”.

(4) After Schedule 9B(b) to the principal Regulations (deduction from benefits in respect of child support maintenance and payment to persons with care) there shall be inserted the Schedule set out in the Schedule to this Order.

Amendment of the Change of Circumstances Regulations

3. After regulation 5(1) of the Change of Circumstances Regulations (change affecting other benefit payment or advantage) there shall be inserted—

“(1ZA) Where this paragraph applies, where the notice in writing referred to in paragraph (1) is given or sent by an electronic communication that notice must be given or sent in accordance with the provisions set out in Schedule 9ZC to the Social Security (Claims and Payments) Regulations 1987 (electronic communication).

(1ZB) Paragraph (1ZA) applies in relation to carer’s allowance.”.

Revocations

4. The Social Security (Electronic Communications) (Child Benefit) Order 2002(c) is hereby revoked.

Signed by authority of the Secretary of State for Work and Pensions.

3rd November 2003

Maria Eagle
Parliamentary Under-Secretary of State,
Department for Work and Pensions

(a) Regulation 32 was amended by S.I. 2002/3019 and S.I. 2003/1050. Regulation 32A was inserted by S.I. 2002/1789 and revoked by S.I. 2003/492.

(b) Schedule 9B was inserted by S.I. 2001/18 and amended by S.I. 2002/3019. Schedule 9C was inserted by S.I. 2002/1789 and revoked by S.I. 2003/492.

(c) S.I. 2002/1789.

SCHEDULE

Article 2(4)

“SCHEDULE 9ZC

Regulations 4ZC and 32ZA

ELECTRONIC COMMUNICATION

PART 1

INTRODUCTION

Interpretation

1. In this Schedule “official computer system” means a computer system maintained by or on behalf of the Secretary of State for the sending, receiving, processing or storing of any claim, certificate, notice, information or evidence.

PART 2

ELECTRONIC COMMUNICATION – GENERAL PROVISIONS

Conditions for the use of electronic communication

2.—(1) The Secretary of State may use an electronic communication in connection with claims for, and awards of, carer’s allowance.

(2) A person other than the Secretary of State may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.

(3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Secretary of State.

(4) The second condition is that the person uses an approved method of—

- (a) authenticating the identity of the sender of the communication;
- (b) electronic communication;
- (c) authenticating any claim, certificate, notice, information or evidence delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (7), submitting to the Secretary of State any claim, certificate, notice, information or evidence.

(5) The third condition is that any claim, certificate, notice, information or evidence sent by means of an electronic communication is in a form approved for the purpose of this Schedule.

(6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Secretary of State.

(7) Where the person uses any method other than the method approved by the Secretary of State, of submitting any claim, certificate, notice, information or evidence, that claim, certificate, notice, information or evidence shall be treated as not having been submitted.

(8) In this paragraph “approved” means approved by means of a direction given by the Secretary of State for the purposes of this Schedule.

Use of intermediaries

3. The Secretary of State may use intermediaries in connection with—
- (a) the delivery of any claim, certificate, notice, information or evidence by means of an electronic communication; and
 - (b) the authentication or security of anything transmitted by such means,

and may require other persons to use intermediaries in connection with those matters.

PART 3

ELECTRONIC COMMUNICATION – EVIDENTIAL PROVISIONS

Effect of delivering information by means of electronic communication

4.—(1) Any claim, certificate, notice, information or evidence which is delivered by means of an electronic communication shall be treated as having been delivered, in the manner or form required by any provision of these Regulations, on the day the conditions imposed—

- (a) by this Schedule; and
- (b) by or under an applicable enactment,

are satisfied.

(2) The Secretary of State may, by a direction, determine that any claim, certificate, notice, information or evidence is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

(3) Information shall not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

Proof of identify of sender or recipient of information

5. If it is necessary to prove, for the purpose of any legal proceedings, the identity of—
- (a) the sender of any claim, certificate, notice, information or evidence delivered by means of an electronic communication to an official computer system; or
 - (b) the recipient of any such claim, certificate, notice, information or evidence delivered by means of an electronic communication from an official computer system,

the sender or recipient, as the case may be, shall be presumed to be the person whose name is recorded as such on that official computer system.

Proof of delivery of information

6.—(1) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any claim, certificate, notice, information or evidence this shall be presumed to have been the case where—

- (a) any such claim, certificate, notice, information or evidence has been delivered to the Secretary of State, if the delivery of that claim, certificate, notice, information or evidence has been recorded on an official computer system; or
- (b) any such certificate, notice, information or evidence has been delivered by the Secretary of State, if the delivery of that certificate, notice, information or evidence has been recorded on an official computer system.

(2) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such claim, certificate, notice, information or evidence, this shall be presumed not to be the case, if that claim, certificate, notice,

information or evidence delivered to the Secretary of State has not been recorded on an official computer system.

(3) If it is necessary to prove, for the purpose of any legal proceedings, when any such claim, certificate, notice, information or evidence sent by means of an electronic communication has been received, the time and date of receipt shall be presumed to be that recorded on an official computer system.

Proof of content of information

7. If it is necessary to prove, for the purpose of any legal proceedings, the content of any claim, certificate, notice, information or evidence sent by means of an electronic communication, the content shall be presumed to be that recorded on an official computer system.”

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Social Security (Claims and Payments) Regulations 1987 (“the Claims and Payments Regulations”) and the Social Security (Notification of Change of Circumstances) Regulations 2001 so as to make provision for claims for, and the notifying of a change of circumstance relevant to an award of, carer’s allowance, to be made electronically.

Article 2 amends the Claims and Payments Regulations. Article 2(1) amends regulation 2 of those regulations inserting new definitions into that regulation. Article 2(2) inserts a new regulation 4ZC, which authorises the use of electronic communication to make a claim for, and to provide any certificate, notice, information or evidence connected with a claim for carer’s allowance subject to the provisions set out in Schedule 9ZC. Article 2(3) inserts a new regulation 32ZA, which provides for the giving of information in relation to carer’s allowance to be given by means of an electronic communication subject to the provisions set out in Schedule 9ZC. Article 2(4) inserts a new Schedule 9ZC; this Schedule authorises the Secretary of State to use electronic communications in connection with claims for, and awards of, carer’s allowance. It also sets out the conditions to be satisfied where a claim for carer’s allowance is made by means of electronic communication and makes other provisions which apply to any electronic communication made in connection with carer’s allowance.

Article 3 adds a new paragraph (1ZA) to regulation 5 of the Social Security (Notification of Change of Circumstances) Regulations 2001 to provide that where a change of circumstances is notified in respect of carer’s allowance for the purposes of section 111A(1A) to (1G) and 112(1A) to (1F) of the Social Security Administration Act 1992, by an electronic communication, the provisions set out in Schedule 9ZC to the Claims and Payments Regulations apply to that notification.

Article 4 revokes the Social Security (Electronic Communications) (Child Benefit) Order 2002 (S.I.2002/1789) (“the Child Benefit Order”). The provisions inserted into the Claims and Payments Regulations by the Child Benefit Order have been revoked by the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003 (S.I.2003/492).

This Order does not impose a charge on business.

2003 No. 2800

SOCIAL SECURITY

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Allowance) Order 2003**

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