

2005 No. 3

SOCIAL SECURITY

The Social Security (Incapacity Benefit Work-focused Interviews) Amendment Regulations 2005

<i>Made</i> - - - -	<i>5th January 2005</i>
<i>Laid before Parliament</i>	<i>12th January 2005</i>
<i>Coming into force</i> - -	<i>7th February 2005</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 2A, 189(4) to (6) and (7A) and 191 of the Social Security Administration Act 1992(a) and of all other powers enabling him in that behalf, and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it(b), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Incapacity Benefit Work-focused Interviews) Amendment Regulations 2005 and shall come into force on 7th February 2005.

(2) In these Regulations, “the 2003 Regulations” means the Social Security (Incapacity Benefit Work-focused Interviews) Regulations 2003(c).

Amendment of the 2003 Regulations

2. The 2003 Regulations are amended in accordance with the Schedule to these Regulations.

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

5th January 2005

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

(a) 1992 c.5. Section 2A was inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c.30). Section 189(4) to (6) was amended by section 86 of, and paragraph 109 of Schedule 7 to, the Social Security Act 1998 (c.14). Section 189(7A) was inserted by paragraph 82 of Schedule 12 to the Welfare Reform and Pensions Act 1999. Section 191 is cited because of the meaning there given to the word “prescribe”.
(b) See section 173(1)(b) of the Social Security Administration Act 1992.
(c) S.I. 2003/2439.

Amendment of the 2003 Regulations

1. In regulation 2 (interpretation)—

- (a) for the definition of “relevant person” there is substituted—

““relevant person” means a person who resides in an area identified in—

- (a) Part 1 of the Schedule to these Regulations and—

- (i) who makes a claim for a specified benefit on or after 27th October 2003, or
- (ii) who made a claim for a specified benefit on or after 27th October 2001 but before 27th October 2003 and who is entitled to a specified benefit under that claim; or

- (b) Part 2 of that Schedule and—

- (i) who makes a claim for a specified benefit on or after 5th April 2004, or
- (ii) who made a claim for a specified benefit on or after 5th April 2002 but before 5th April 2004 and who is entitled to a specified benefit under that claim;

but where sub-paragraphs (i) and (ii) of paragraphs (a) or (b) would otherwise apply to a person—

- (i) only sub-paragraph (ii) of paragraph (a) or (b) shall be taken to apply if that person makes a claim for a specified benefit on or after 7th February 2005, and
- (ii) only sub-paragraph (i) of paragraph (a) or (b) shall be taken to apply if that person does not make a claim for a specified benefit on or after 7th February 2005.”; and

- (b) in the definition of “specified benefit”—

- (i) in paragraph (c)—

- (aa) before the opening words there is inserted “in respect of a relevant person to whom paragraph (a)(i) or (b)(i) of the definition of “relevant person” applies,”; and

- (bb) for “specified benefit referred to in sub-paragraph” there is substituted “benefit specified in paragraph”; and

- (ii) after paragraph (c) there is inserted—

“(ca) in respect of a relevant person to whom paragraph (a)(ii) or (b)(ii) of the definition of “relevant person” applies, income support where paragraph 24 or 25 (persons appealing against a decision which embodies a determination that they are not incapable of work) of Schedule 1B to the Income Support (General) Regulations 1987 applies to a person who has made a claim for a benefit specified in paragraph (a), (b) or (d) of this definition on or after—

- (i) 27th October 2001 but before 27th October 2003 where that person resides in an area identified in Part 1 of the Schedule to these Regulations; or
- (ii) 5th April 2002 but before 5th April 2004 where that person resides in an area identified in Part 2 of that Schedule; or”.

2. In regulation 3 (requirement for a relevant person entitled to a specified benefit to take part in an interview)—

- (a) in paragraph (1) for “paragraph (2) below and regulations 6 and 7” there is substituted “paragraphs (2) and (2A) below and regulations 6 to 8”;

- (b) for paragraph (1)(b) there is substituted—

“(b) has attained the age of 18 but has not attained the age of 60—

- (i) in respect of a relevant person to whom paragraph (a)(i) or (b)(i) of the definition of “relevant person” applies, on the day on which he makes his claim for that specified benefit; or
 - (ii) in respect of a relevant person to whom paragraph (a)(ii) or (b)(ii) of the definition of “relevant person” applies, on 7th February 2005.”;
- (c) after paragraph (2) there is inserted—
- “(2A) A relevant person who becomes entitled to two or more specified benefits and has not taken part in an interview under paragraph (1) above by virtue of that entitlement—
- (a) is only required to take part in one interview under that paragraph; and
 - (b) that interview counts for the purposes of all those benefits.”; and
- (d) for paragraph (3) there is substituted—
- “(3) An officer shall arrange for the interview referred to in paragraph (1) above to take place—
- (a) in respect of a relevant person to whom paragraph (a)(i) or (b)(i) of the definition of “relevant person” applies, after the expiry of eight weeks after the date the claim for a specified benefit is made or as soon as is reasonably practicable thereafter; or
 - (b) in respect of a relevant person to whom paragraph (a)(ii) or (b)(ii) of the definition of “relevant person” applies, on a date the officer determines.”.

3. In regulation 4 (continuing entitlement to a specified benefit dependent upon an interview)—
- (a) in paragraph (1) for “five further interviews” there is substituted “a sequence of further interviews as provided for by paragraph (1A) below”;
 - (b) after paragraph (1) there is inserted—
- “(1A) A relevant person to whom—
- (a) paragraph (a)(i) or (b)(i) of the definition of “relevant person” applies shall be required to take part in a sequence of five further interviews;
 - (b) paragraph (a)(ii) or (b)(ii) of the definition of “relevant person” applies shall be required to take part in a sequence of two further interviews.”;
- (c) in paragraphs (2) and (3), after the word “five” there is inserted “or, as the case may be, two”;
 - (d) in paragraph (4)(a), for “all five” there is substituted “the five or, as the case may be, two”; and
 - (e) for paragraph (5)(a) there is substituted—
- “(a) a relevant person falls within paragraph (a)(i) or (b)(i) of the definition of “relevant person”;
- (aa) regulation 8 applies to the relevant person;”.

4. For regulation 8 (exemptions) there is substituted—
- “(8) A relevant person to whom—
- (a) paragraph (a)(i) or (b)(i) of the definition of “relevant person” applies, shall be exempt from the requirement to take part in any interview under regulation 4(1);
 - (b) paragraph (a)(ii) or (b)(ii) of the definition of “relevant person” applies, shall be exempt from the requirement to take part in any interview under regulation 3(1) or 4,
- if, on the day on which the requirement to take part in that interview arises or applies, the relevant person is treated as incapable of work in accordance with the provisions of regulation 10 of the Social Security (Incapacity for Work) (General) Regulations 1995(a) (certain persons with a severe condition to be treated as incapable of work).”.

(a) S.I. 1995/311. Relevant amending instruments are S.I. 1995/987, 1996/3207, 1997/1009 and 1999/3109.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Incapacity Benefit Work-focused Interviews) Regulations 2003 (S.I. 2003/2439) (“the principal Regulations”) to extend the numbers of persons that can be required to attend work-focused interviews as a condition of their continued entitlement to full benefit. These Regulations and the principal Regulations apply to certain persons who claim incapacity benefit, income support on the grounds of incapacity, income support whilst they are appealing against a decision which embodies a determination that they are not incapable of work or severe disablement allowance (“specified benefits”).

The Schedule to these Regulations contains amendments to the principal Regulations.

Paragraph 1 of the Schedule amends the principal Regulations so that they apply to an increased number of persons who reside in certain areas of the country (“new persons”). It amends the specified benefits so that they apply in respect of new persons.

Paragraph 2 amends the provisions in the principal Regulations specifying who is required to take part in a work-focused interview. In particular, the amendments provide that a person who is entitled to more than one specified benefit but has not taken part in a work-focused interview is required to take part in interviews for only one benefit. It also provides for the Secretary of State to determine the date on which a new person’s first interview is to take place.

Paragraph 3 makes amendments so that new persons shall be required to take part in two rather than five further work-focused interviews.

Paragraphs 3(e) and 4 make amendments that exempt a new person from the requirement to take part in any work-focused interviews if they are deemed to be exempt from undergoing a personal capability assessment (which assesses the nature of their incapacity) because they have a severe condition.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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