

**2021 No. 1065**

**SOCIAL SECURITY**

**The Social Security Benefits (Claims and Payments)  
(Amendment) Regulations 2021**

<i>Made</i>	- - - -	<i>17th September 2021</i>
<i>Laid before Parliament</i>		<i>21st September 2021</i>
<i>Coming into force</i>	- -	<i>18th October 2021</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 5(1)(i) and 189(1), (4) and (6) of the Social Security Administration Act 1992(a).

In accordance with section 173(1)(b) of that Act, the Social Security Advisory Committee has agreed that proposals in respect of these Regulations shall not be referred to them.

**Citation, commencement and extent**

**1.**—(1) These Regulations may be cited as the Social Security Benefits (Claims and Payments) (Amendment) Regulations 2021 and come into force on 18th October 2021.

(2) Regulation 2 extends—

(a) to England and Wales in relation to the following benefits(b)—

- (i) disability living allowance;
- (ii) attendance allowance;

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(a) 1992 c. 5. Section 189(1) was amended by paragraph 109(a) of Schedule 7, and Schedule 8, to the Social Security Act 1998 (c. 14), paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and paragraph 1 of Schedule 6 to the Tax Credits Act 2002 (c. 21). Section 189(4) was amended by paragraph 109(c) of Schedule 7, and Schedule 8, to the Social Security Act 1998 and S.I. 2013/252. Section 189(6) was amended by S.I. 2013/252.

(b) The provisions being amended by regulations 2 and 3 extend to England and Wales and Scotland. This instrument does not reflect a presumption that amendments will have the same extent and application as the provisions amended because the Secretary of State does not have executive competence to exercise functions, as regards Scotland, in relation to the benefits mentioned in regulations 1(2)(a) and 3(3). The function of making regulations under section 5 of the Social Security Administration Act 1992 is exercisable by the Secretary of State by virtue of section 189(1) of that Act. The functions of the Secretary of State under sections 5 and 189 of the Social Security Administration Act 1992, as regards Scotland, transferred to the Scottish Ministers on 1st April 2020. Legislative competence for disability, industrial injuries and carer's benefits and benefits for maternity, funeral and heating expenses were transferred to the Scottish Parliament by sections 22(2) and 23(2) of the Scotland Act 2016 (c. 11) ("the 2016 Act"). Sections 22(2) and 23(2) inserted exceptions into Section F1 of Schedule 5 to the Scotland Act 1998 (c. 46). Sections 22(2) and 23(2) of the 2016 Act were brought into force on 17th May 2017 by S.I. 2017/455, subject to transitional arrangements set out in S.I. 2017/444 which modified the operation of the Scotland Act 1998. Section 32 of the Scotland Act 2016 provides the meaning of "pre-commencement enactment" in this context. The transitional arrangements in respect of disability, industrial injuries and carer's benefits, and benefits for maternity, funeral and heating expenses ended on 31st March 2020 (see regulations 4 and 7 of S.I. 2017/444). Accordingly, in so far as the functions under section 5 and 189 are exercisable within devolved competence, they are now exercisable by the Scottish Ministers. To ensure that provisions relating to the payment of arrears of benefit by instalments, introduced by these Regulations, operate identically across England and Wales and Scotland, the Scottish Ministers are making parallel regulations, (the Social Security (Claims and Payments) (Miscellaneous Amendments) (Scotland) Regulations 2021), to these Regulations to come into force on 18th October 2021.

- (iii) severe disablement allowance;
  - (iv) industrial injuries disablement benefit;
  - (v) carer's allowance;
  - (vi) social fund payment in respect of maternity expenses;
  - (vii) social fund funeral payment;
  - (viii) social fund cold weather payment;
  - (ix) social fund winter fuel payment.
- (b) to England and Wales and Scotland in relation to the other benefits to which the Social Security (Claims and Payments) Regulations 1987<sup>(a)</sup> apply.
- (3) Regulation 3 extends as follows—
- (a) paragraph (1)—
    - (i) in so far as it relates to paragraphs (2), (4) and (5), extends to England and Wales and Scotland;
    - (ii) in so far as it relates to paragraph (3), extends to England and Wales;
  - (b) paragraphs (2), (4) and (5) extend to England and Wales and Scotland;
  - (c) paragraph (3) extends to England and Wales.
- (4) These Regulations do not extend to Northern Ireland.

#### **Amendment of the Social Security (Claims and Payments) Regulations 1987**

2. After regulation 21 of the Social Security (Claims and Payments) Regulations 1987 insert—

##### **“Payment of arrears of benefit by instalments**

**21ZA.** Except where regulation 23 applies, the Secretary of State may pay arrears of benefit in instalments where—

- (a) the Secretary of State considers it is necessary for protecting the interests of the beneficiary; and
- (b) the beneficiary agrees that those arrears may be paid in instalments.”.

#### **Amendment of the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013**

3.—(1) The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013<sup>(b)</sup> are amended as follows.

(2) In regulation 47 (payment of universal credit), after paragraph (6), insert—

“(6A) The Secretary of State may pay arrears of universal credit in instalments where—

- (a) the Secretary of State considers it is necessary for protecting the interests of the claimant, or, in the case of joint claimants, either of the claimants; and
- (b) the claimant agrees, or in the case of joint claimants, both claimants agree, that those arrears may be paid in instalments.”.

(3) In regulation 48 (payment of personal independence payment), after paragraph (3), insert—

“(4) The Secretary of State may pay arrears of personal independence payment in instalments where—

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(a) S.I. 1987/1968, to which there are amendments not relevant to these Regulations.

(b) S.I. 2013/380, to which there are amendments not relevant to these Regulations.

- (a) the Secretary of State considers it is necessary for protecting the interests of the claimant; and
  - (b) the claimant agrees that those arrears may be paid in instalments.”.
- (4) In regulation 51 (payment of an employment and support allowance), after paragraph (4), insert—
- “(4A) The Secretary of State may pay arrears of employment and support allowance in instalments where—
- (a) the Secretary of State considers it is necessary for protecting the interests of the claimant; and
  - (b) the claimant agrees that those arrears may be paid in instalments.”.
- (5) In regulation 52 (payment of a jobseeker’s allowance), after paragraph (2), insert—
- “(2A) The Secretary of State may pay arrears of jobseeker’s allowance in instalments where—
- (a) the Secretary of State considers it is necessary for protecting the interests of the claimant; and
  - (b) the claimant agrees that those arrears may be paid in instalments.”.

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

*Thèrése Coffey*  
Secretary of State  
Department for Work and Pensions

17th September 2021

#### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

Regulations 2 and 3 of these Regulations amend, respectively, the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) and the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (S.I. 2013/380) to allow the Secretary of State to pay benefit arrears in instalments where the Secretary of State considers it to be in the interest of the person entitled to the benefit and that person agrees, or as the case may be, those persons agree, to payment of the arrears in that manner.

A full Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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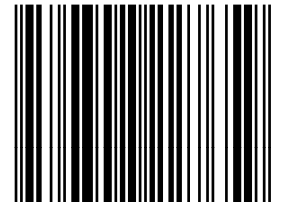
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