
STATUTORY INSTRUMENTS

1999 No. 2422 (c. 61)

SOCIAL SECURITY

The Social Security Act 1998 (Commencement
No. 9, and Savings and Consequential
and Transitional Provisions) Order 1999

Made - - - - 2nd September 1999

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 79(3) and (4) and 87(2) and (3) of the Social Security Act 1998⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Social Security Act 1998 (Commencement No. 9, and Savings and Consequential and Transitional Provisions) Order 1999.

(2) In this Order, unless the context otherwise requires—

- (a) “the Act” means the Social Security Act 1998;
- (b) “the Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations 1999⁽²⁾;
- (c) “relevant benefit” means any of the benefits to which article 2(c) of this Order refers,

and references to sections and Schedules are references to sections of, and Schedules to, the Act.

Appointed day

2. 6th September 1999 is the day appointed for the coming into force of—

- (a) section 31;
- (b) section 39(3) in so far as it provides that section 61A of the Administration Act⁽³⁾ shall cease to have effect, and section 86(2) and Schedule 8 in so far as they repeal that section 61A; and
- (c) the provisions specified in Schedule 1 to this Order, in so far as those provisions are not already in force, for the purposes of—

(1) 1998 c. 14.

(2) S.I. 1999/991, to which there are amendments not relevant to this Order.

(3) Section 61A was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 6(2).

- (i) benefits under Part II of the Contributions and Benefits Act except child's special allowance;
- (ii) severe disablement allowance under sections 68 and 69 of that Act;
- (iii) benefits for the aged under sections 78 and 79 of that Act;
- (iv) increases for dependants under Part IV of that Act; and
- (v) graduated retirement benefit under sections 36 and 37 of the National Insurance Act 1965(4).

Consequential amendments and modifications

3.—(1) The amendments and modifications made by the following paragraphs of this article shall take effect as from 6th September 1999.

(2) The Social Security Benefit (Dependency) Regulations 1977(5) shall as they relate to any of the relevant benefits be modified in accordance with Schedule 2 to this Order.

(3) Section 36(10) of the National Insurance Act 1965 as continued in force by virtue of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 shall be omitted.

(4) The Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979(6) shall be amended in accordance with Schedule 3 to this Order.

(5) The Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979(7) shall be amended in accordance with Schedule 4 to this Order.

(6) The Social Security (Severe Disablement Allowance) Regulations 1984(8) shall be amended in accordance with Schedule 5 to this Order.

(7) The Income Support (General) Regulations 1987(9) shall be amended in accordance with Schedule 6 to this Order.

(8) The Social Security (Claims and Payments) Regulations 1987(10) shall as they relate to any of the relevant benefits be modified in accordance with Schedule 7 to this Order.

(9) The Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988(11) shall as they relate to any of the relevant benefits be modified in accordance with Schedule 8 to this Order.

(10) The Social Security (Incapacity Benefit-Increases for Dependants) Regulations 1994(12) shall be amended in accordance with Schedule 9 to this Order.

(11) The Social Security (Incapacity for Work) (General) Regulations 1995(13) shall be amended in accordance with Schedule 10 to this Order.

(4) 1965 c. 51; sections 36 and 37 remain in force by virtue of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (S.I. 1978/393).

(5) S.I. 1977/343; amendment was made by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 8, paragraph 1(3)(a).

(6) S.I. 1979/642; amendment was made by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 8, paragraph 1(3)(a).

(7) S.I. 1979/643; amendments were made by the Social Security Act 1980 (c. 30), section 12(a) and the Health and Social Services and Social Security Adjudications Act 1983, Schedule 8, paragraph 1(3)(a).

(8) S.I. 1984/1303; the relevant amending instrument is S.I. 1988/1983.

(9) S.I. 1987/1967; the relevant amending instrument is S.I. 1996/206.

(10) S.I. 1987/1968; relevant amending instruments are S.I. 1992/247, 1993/2113, 1994/2319, 1996/1460, 1996/2306 and 1998/1381.

(11) S.I. 1988/664; the relevant amending instruments are S.I. 1991/2742 and 1996/30.

(12) S.I. 1994/2945, to which there are amendments not relevant to this Order.

(13) S.I. 1995/311; the relevant amending instrument is S.I. 1995/987.

(12) The Disability Working Allowance and Income Support (General) Amendment Regulations 1995(14) shall be amended in accordance with Schedule 11 to this Order.

(13) The Social Security (Persons From Abroad) Miscellaneous Amendments Regulations 1996(15) shall be amended in accordance with Schedule 12 to this Order.

(14) The Social Security Benefit (Computation of Earnings) Regulations 1996(16) shall as they relate to any of the relevant benefits be modified in accordance with Schedule 13 to this Order.

Transitional provisions

4. Schedule 14 to this Order shall have effect as from 6th September 1999.

Savings

5. Notwithstanding the coming into force of section 39(3) (Part II of the Administration Act to cease to have effect) or regulation 59 (revocations) of the Regulations—

- (a) sections 18 and 19 of the Administration Act (appeals on questions of law, and review of decisions);
- (b) sections 59 to 61 of, and Schedule 3 to, that Act (regulations about procedural and supplementary matters) as they relate to regulations made in relation to those sections; and
- (c) any regulations made under or in connection with the operation of any of those sections or that Schedule,

shall continue to have effect with respect to any decision given before 6th September 1999 by the Secretary of State under section 17 of that Act (questions for the Secretary of State).

Signed by authority of the Secretary of State for Social Security.

2nd September 1999

Angela Eagle
Parliamentary Under-Secretary of
State, Department of Social Security

(14) S.I. 1995/482; the relevant amending instrument is S.I. 1995/2303.

(15) S.I. 1996/30.

(16) S.I. 1996/2745.

SCHEDULE 1

Article 2(c)

PROVISIONS BROUGHT INTO FORCE ON 6TH SEPTEMBER
1999 FOR THE PURPOSES SPECIFIED IN ARTICLE 2(c)

<i>Provision of the Act</i>	<i>Subject matter</i>
Section 1(a)	Transfer of functions of adjudication officers to Secretary of State
Section 2(2)(a)	Use of computers
Section 4(1)(a), in so far as it relates to social security appeal tribunals and medical appeal tribunals, and (2)(a)	Unified appeal tribunals
Section 8(1)(a) and (c), (2), (3)(a), (4) and (5)(17)	Decisions by the Secretary of State
Sections 9 and 10(17)	Revision, and decisions superseding earlier decisions
Section 11(1) and (2), and (3) except the definition of “the current legislation” in so far as it relates to the Jobseekers Act 1995(18) and the Social Security (Recovery of Benefits) Act 1997(19) and the definition of “the former legislation” in so far as it relates to Part II of the Social Security Act 1986	Regulations with respect to decisions, and assistance from experts
Section 12(1)(a) (in so far as it relates to paragraphs 5, 6(a) and 9 of Schedule 2) and (b) (in so far as it relates to paragraphs 1, 2, 3(a) and (c), 4, 5 (except in so far as that paragraph relates to section 71A of the Administration Act(20)), 6 and 9 of Schedule 3), (2), (3), (4) (except in so far as it relates to section 74 of the Administration Act) and (6) to (9)(21)	Appeal to appeal tribunal
Section 13(22)	Redetermination etc. of appeals by appeal tribunal
Section 14(22) and Schedule 4	Appeal from tribunal to Commissioner
Section 15	Appeal from Commissioner on point of law
Section 16(23) and Schedule 5	Procedure
Section 17	Finality of decisions

(17) Sections 8 and 10 are amended by paragraphs 22 and 23 respectively of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (“the Transfer Act”).

(17) Sections 8 and 10 are amended by paragraphs 22 and 23 respectively of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (“the Transfer Act”).

(18) 1995 c. 18.

(19) 1997 c. 27.

(20) 1992 c. 5; section 71A was inserted by section 18 of the Jobseekers Act 1995 (c. 18).

(21) Section 12 and Schedule 3 are amended by paragraphs 25 and 36 respectively of Schedule 7 to the Transfer Act.

(22) Sections 13 and 14 are amended by paragraphs 26 and 27 respectively of Schedule 7 to the Transfer Act.

(22) Sections 13 and 14 are amended by paragraphs 26 and 27 respectively of Schedule 7 to the Transfer Act.

(23) Section 16 was amended by paragraph 28 of Schedule 7 to the Transfer Act.

<i>Provision of the Act</i>	<i>Subject matter</i>
Sections 18(1) and 19(24)	Matters arising as respects decisions, and medical examination required by Secretary of State
Section 20(1), (2) and (3)(a)(25)	Medical examination required by appeal tribunal
Sections 21(25) to 27 (except section 26(8))	Suspension and termination of benefit, decisions and appeals involving issues that arise on appeals in other cases, and restrictions on entitlement in cases of error
Section 28(26) (except subsection (3)(c) to (e))	Correction of errors, and setting aside of decisions
Section 39(26)	Interpretation etc. of Chapter II of Part I of the Act
Schedule 7(27) in the respects specified below, and section 86(1) in so far as it relates to them—	Minor and consequential amendments—
paragraph 11	provision as to forfeiture
paragraph 62	Category A and Category B retirement pensions: supplemental provisions
paragraphs 66 to 71(a)	miscellaneous provisions relating to benefits
paragraph 76	incapacity for work: disqualification etc.
paragraph 78	late claims for widowhood benefits
paragraph 79(1)	claims and payments
paragraph 81	overpayments
paragraphs 88 and 89	disclosure of information, and notification of deaths
paragraph 102	financial review and report
paragraphs 107 and 108	reciprocal agreements and travelling expenses
paragraph 109	regulations and orders under the Administration Act
paragraph 112	application to Northern Ireland
paragraph 121(2)(a) and (c)	tribunals under supervision of Council on Tribunals
paragraph 123(1)(a)	judicial pensions—other appointments
paragraph 124(1)(a)	judicial retirement—the relevant offices

(24) Sections 18 and 19 were amended by paragraphs 29 and 30 respectively of Schedule 7 to the Transfer Act.

(25) Sections 20 and 21 are amended by paragraphs 31 and 32 respectively of Schedule 7 to the Transfer Act.

(25) Sections 20 and 21 are amended by paragraphs 31 and 32 respectively of Schedule 7 to the Transfer Act.

(26) Sections 28 and 39 are amended by paragraphs 34 and 35 respectively of Schedule 7 to the Transfer Act.

(26) Sections 28 and 39 are amended by paragraphs 34 and 35 respectively of Schedule 7 to the Transfer Act.

(27) Certain provisions of Schedule 7 are repealed by Schedule 10 to the Transfer Act.

Status: This is the original version (as it was originally made).

SCHEDULE 2

Article 3(2)

MODIFICATION OF THE SOCIAL SECURITY
BENEFIT (DEPENDENCY) REGULATIONS 1977

As if in regulation 1(2)(28) (interpretation), for the definition of “the determining authority” there were substituted the following definition—

““the determining authority” means, as the case may require, the Secretary of State, an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998, the Chief or any other Social Security Commissioner, or a tribunal consisting of three or more such Commissioners constituted in accordance with section 16(7) of that Act;”

SCHEDULE 3

Article 3(4)

AMENDMENT OF THE SOCIAL SECURITY (WIDOW'S
BENEFIT AND RETIREMENT PENSIONS) REGULATIONS 1979

1. In regulation 1(29) (citation, commencement and interpretation)—

(a) in paragraph (2), for the definition of “the determining authority” there shall be substituted the following definition—

““the determining authority” means, as the case may require, the Secretary of State, an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998 or a Commissioner, or a tribunal consisting of three or more such Commissioners constituted in accordance with section 16(7) of that Act;” and

(b) in paragraph (3) the words—

(i) “the Secretary of State or”; and

(ii) “, whichever is appropriate”,
shall be omitted.

2. In regulation 4(2)(b)(i) (days to be treated as days of increment) the words—

(a) “the Secretary of State or”; and

(b) “, whichever is appropriate”,

shall be omitted.

SCHEDULE 4

Article 3(5)

AMENDMENT OF THE SOCIAL SECURITY (WIDOW'S BENEFIT, RETIREMENT
PENSIONS AND OTHER BENEFITS) (TRANSITIONAL) REGULATIONS 1979

1. In regulation 2(3)(30) (interpretation), for the words “, a social security appeal tribunal or an adjudication officer” there shall be substituted the words “or an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998”.

(28) Amendment was made by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 8, paragraph 1(3)(a).

(29) Amendment was made by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 8, paragraph 1(3)(a).

(30) Amendment was made by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 8, paragraph 1(3)(a).

2. Paragraph (2) of regulation 19(31) shall be omitted.

SCHEDULE 5

Article 3(6)

AMENDMENT OF THE SOCIAL SECURITY (SEVERE DISABLEMENT ALLOWANCE) REGULATIONS 1984

1. In regulation 10(32) (adjudication)—
 - (a) in paragraph (1)(i), for the words “an adjudicating medical authority” there shall be substituted the words “the Secretary of State or, as the case may be, an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998”; and
 - (b) paragraphs (3) and (4) shall be omitted.
2. Sub-paragraph (c) of regulation 18(3) shall be omitted.

SCHEDULE 6

Article 3(7)

AMENDMENT OF THE INCOME SUPPORT (GENERAL) REGULATIONS 1987

1. In regulation 22A(33) (reduction in applicable amount where claimant is appealing against a decision that he is not incapable of work)—
 - (a) in paragraphs (1) and (3) and in the heading, after the words “against a decision” there shall be inserted the words “which embodies a determination”; and
 - (b) in paragraph (3), for the word “decision” in the second place in which it occurs there shall be substituted the word “determination”.
2. In regulations 71(1)(d) (applicable amounts in urgent cases) and 76(a)(d) (reductions), after the words “against a decision” in each place in which it occurs there shall be inserted the words “which embodies a determination”.
3. In Schedule 1B(d) (prescribed categories of person)—
 - (a) in paragraphs 24 and 25, after the words “against the” there shall be inserted the words “decision which embodies a”;
 - (b) in paragraphs 26 and 27, after the word “decisions” there shall be inserted the words “which embody a determination”; and
 - (c) in the heading to paragraphs 24 to 28, after the word “decision” there shall be inserted the words “which embodies a determination”.

(31) Amendments were made by the Social Security Act 1980 (c. 30), section 12(a) and the Health and Social Services and Social Security Adjudications Act 1983, Schedule 8, paragraph 1(3)(a).

(32) The relevant amending instrument is S.I. 1988/1983.

(33) Regulation 22A and Schedule 1B were inserted by and regulations 71(1) and 76(a) were amended in the relevant respects by S.I. 1996/206.

SCHEDULE 7

Article 3(8)

MODIFICATION OF THE SOCIAL SECURITY
(CLAIMS AND PAYMENTS) REGULATIONS 1987

1. As if in regulation 2(1)(**34**) (interpretation), in the definition of “claim for benefit” for the words “the review of an award or” (in both places where the expression occurs) there were substituted the words “a revision under section 9 or a supersession under section 10 of the Social Security Act 1998 of”.
2. As if in regulation 13 (advance claims and awards)—
 - (a) in paragraph (1) for the words—
 - (i) “adjudicating authority” there were substituted the words “Secretary of State”;
 - (ii) “that authority” there were substituted the words “the Secretary of State”; and
 - (b) in paragraph (2), for the words “An award under paragraph (1)(b) shall be reviewed by the adjudicating authority” there were substituted the words “A decision pursuant to paragraph (1)(b) to award benefit may be revised under section 9 of the Social Security Act 1998”.
3. As if in regulation 17(4) (duration of awards), the words from “; and where those” to the end were omitted.
4. As if in the heading to Part V, the words “SUSPENSION AND” were omitted.
5. As if regulations 37 to 37B(**35**) (suspension and withholding of benefit) were omitted.
6. As if in regulation 38(2A)(**36**) (extinguishment of right to payment of sums by way of benefit where payment is not obtained within the prescribed period)—
 - (a) for the words “adjudicating authority” in both places in which they occur there were substituted the words “Secretary of State”;
 - (b) in sub-paragraph (a) for the words “the Secretary of State has” there were substituted the word “he”; and
 - (c) in sub-paragraph (c)—
 - (i) the words “the Secretary of State has certified” were omitted;
 - (ii) the word “that” in each place in which it occurs were omitted;
 - (iii) in head (ii), for the word “him” there were substituted the words “the Secretary of State”.

SCHEDULE 8

Article 3(9)

MODIFICATION OF THE SOCIAL SECURITY (PAYMENTS ON
ACCOUNT, OVERPAYMENTS AND RECOVERY) REGULATIONS 1988

1. As if in regulation 1(2)(**37**) (interpretation), for the definition of “adjudicating authority” there were substituted the following definition—

(34) There are amendments to regulation 2 which are not relevant to this Order.

(35) Regulations 37, 37A and 37B were substituted for regulation 37 by S.I. 1992/247. Regulation 37 was amended by S.I. 1993/2113, 1996/1460 and 1996/2306. Regulation 37A was substituted by S.I. 1998/1381. Regulations 37AA and 37AB were inserted by S.I. 1994/2319. Regulation 37AA was amended by S.I. 1996/2306 and 1996/1460.

(36) Regulation 38 (2A) was inserted by S.I. 1989/1686 and amended by S.I. 1993/2113.

(37) The relevant amending instrument is S.I. 1991/2742.

““adjudicating authority” means, as the case may require, the Secretary of State, an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998, the Chief or other Commissioner, or a tribunal consisting of any three or more Commissioners constituted in accordance with section 16(7) of that Act;”.

2. As if in regulation 2(1)(b)(38) (making of interim payments), for the words “a reference, review,” there were substituted the word “an”.

3. As if in regulation 5(2) (offsetting prior payment against subsequent award)—

(a) for Case 1 there were substituted the following case—

“Case 1: Payment pursuant to a decision which is revised or superseded, or overturned on appeal

Where a person has been paid a sum by way of benefit pursuant to a decision which is subsequently revised under section 9 of the Social Security Act 1998, superseded by a decision under section 10 of that Act or overturned on appeal”; and

(b) in Case 2, the words “, on review or appeal,” were omitted.

4. As if in the heading to Part VI the words “REVISION OF DETERMINATION AND” were omitted.

5. As if in regulation 12 (circumstances in which determination need not be revised) for the words—

(a) “or revision of determination” there were substituted the words “, revision or supersession”; and

(b) “for reviewing and revising the determination under which payment was made” there were substituted the words “for the decision pursuant to which the payment was made to be revised under section 9 of the Social Security Act 1998 or superseded under section 10 of that Act”.

SCHEDULE 9

Article 3(10)

AMENDMENT OF THE SOCIAL SECURITY (INCAPACITY BENEFIT—INCREASES FOR DEPENDANTS) REGULATIONS 1994

In regulation 3 (allocation of contributions for a spouse or child)—

(a) in paragraph (1), for the words “may be determined by the adjudicating authority so as to” there shall be substituted the word “would”; and

(b) in paragraph (3), the definition of “adjudicating authority” shall be omitted.

SCHEDULE 10

Article 3(11)

AMENDMENT OF THE SOCIAL SECURITY (INCAPACITY FOR WORK) (GENERAL) REGULATIONS 1995

1. In regulation 2 (interpretation) the definitions of “adjudication officer”, “the President” and “social security appeal tribunal” shall be omitted.

(38) The relevant amending instrument is S.I. [1996/30](#).

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2. In regulation 18(2) (disqualification for misconduct etc.) for the words “may be determined under Part II of the Administration Act” there shall be substituted the words “the Secretary of State may determine”.

3. Chapter V of Part II(39) (adjudication) is hereby revoked.

SCHEDULE 11

Article 3(12)

AMENDMENT OF THE DISABILITY WORKING ALLOWANCE AND INCOME SUPPORT (GENERAL) AMENDMENT REGULATIONS 1995

In regulation 19(5)(40) (transitional provisions with regard to the Income Support Regulations), for the words “Where an adjudication officer on or after 13th April 1995, determines” there shall be substituted the words “Where it is determined on or after 13th April 1995”.

SCHEDULE 12

Article 3(13)

AMENDMENT OF THE SOCIAL SECURITY (PERSONS FROM ABROAD) MISCELLANEOUS AMENDMENTS REGULATIONS 1996

In regulation 12(3), after the words “Social Security Administration Act 1992” there shall be inserted the words “or a decision is made in relation to that entitlement under section 9 or section 10 of the Social Security Act 1998”.

SCHEDULE 13

Article 3(14)

MODIFICATION OF THE SOCIAL SECURITY BENEFIT (COMPUTATION OF EARNINGS) REGULATIONS 1996

1. Subject to the following provisions of this Schedule, as if for the words “the adjudicating authority” and “an adjudicating authority” in each place in which they occur there were substituted the words “the Secretary of State”.

2. As if in regulation 2(1) (interpretation), the definition of “adjudicating authority” were omitted.

3. As if in regulation 4 (notional earnings)—

(a) in paragraph (1) for the words “of the determination of the claim or of any subsequent review the adjudicating authority shall treat the claimant” there were substituted the words “on which a decision falls to be made by the Secretary of State under Chapter II of Part I of the Social Security Act 1998 or regulations made thereunder the claimant shall be treated”; and

(b) in paragraph (2) for the words “the adjudicating authority shall treat the claimant” there were substituted the words “the claimant shall be treated”.

4. As if in regulation 6(8) (calculation of earnings of employed earners) in paragraph (b)(ii)(bb) of the definition of “part-time employment”, for the words “of review” there were substituted the words “on which a revision or supersession of a decision falls to be made”.

(39) Regulation 20 was substituted by S.I. 1995/987 and regulation 22 was amended by S.I. 1995/987.

(40) Regulation 19(5) was amended by S.I. 1995/2303.

5. As if in regulation 13(8) (calculation of net profit of self-employed earners), for the words “The adjudicating authority shall refuse to make a deduction” there were substituted the words “A deduction shall not be made”.

6. As if in regulation 14(2) (deduction of tax and contributions for self-employed earners) for the words “of the determination of the claim or of any subsequent review” in both places in which they occur there were substituted the words “on which a decision is made by the Secretary of State under Chapter II of Part I of the Social Security Act 1998 or regulations made thereunder”.

7. As if regulation 16 (transitional provision to suspend benefit and make interim payments) were omitted.

SCHEDULE 14

Article 4

TRANSITIONAL PROVISIONS

1. In this Schedule—

“the Adjudication Regulations” means the Social Security (Adjudication) Regulations 1995(41);

“all work test” has the meaning it bears in regulation 2(1) of the Social Security (Incapacity for Work) (General) Regulations 1995(42);

“relevant enactment” has the meaning it bears in section 8(4); and

“medically qualified panel member” and “legally qualified panel member” have the meanings they bear in regulation 1(3) of the Regulations.

2.—(1) Subject to sub-paragraph (4) below, a decision which fell to be made before 6th September 1999 (but which was not made before that date)—

(a) on a claim for; or

(b) under or by virtue of Part II of the Administration Act in relation to,

a relevant benefit (other than a decision which fell to be made on appeal) shall be made by the Secretary of State under paragraph (a) or, as the case may be, paragraph (c) of section 8(1).

(2) Subject to sub-paragraph (4) below, any reference of a disablement question made in relation to a relevant benefit which fell to be determined before 6th September 1999 but which was not determined before that date shall be determined by the Secretary of State.

(3) In sub-paragraph (2) above “disablement question” shall be construed in accordance with section 45 of the Administration Act.

(4) An appeal tribunal shall determine any case referred to a medical appeal tribunal under section 46(3)(b) of the Administration Act for a decision in relation to a relevant benefit which was not determined before 6th September 1999.

3.—(1) Any application duly made before 6th September 1999 under Part II of the Administration Act for a review of a decision (other than a decision given on appeal) in relation to a relevant benefit which was not decided before that date shall on or after that date be treated as an application to the Secretary of State—

(a) where the application is made—

(41) S.I. 1995/1801; regulations 3 and 10 were amended by S.I. 1996/182 and 2450.

(42) Paragraph (3E) was inserted by S.I. 1996/182.

Status: This is the original version (as it was originally made).

- (i) within three months of the date on which the applicant was notified of the decision, or within such longer period as may be allowed under sub-paragraph (3) below; and
- (ii) other than on the ground of a relevant change of circumstances,

for a revision of that decision under section 9; or

- (b) in any other case, for a decision under section 10 to supersede that decision.

(2) Any application duly made before 6th September 1999 under Part II of the Administration Act for a review of a decision given on appeal in relation to a relevant benefit shall on or after that date be treated as an application to the Secretary of State for a decision under section 10 to supersede that decision.

(3) Subject to sub-paragraphs (4) and (5) below, the period of three months specified in sub-paragraph (1)(a) above may be extended where an application for such an extension is made before 6th October 2000 by a claimant or a person acting on his behalf containing—

- (a) the grounds on which an extension of time is sought; and
- (b) sufficient details of the decision to enable it to be identified.

(4) An application for an extension of time shall not be granted under sub-paragraph (3) above unless the Secretary of State is satisfied that—

- (a) it is reasonable to grant that application;
- (b) the application for review has merit; and
- (c) special circumstances are relevant to the application for extension of time as a result of which it was not practicable for the application for review to be made within three months of the date of the adjudication officer's decision being notified to the claimant.

(5) In deciding whether to grant an extension of time no account shall be taken of the following factors—

- (a) that the claimant or any person acting for him misunderstood or was unaware of the law applicable to his case (including misunderstanding or being unaware of the period specified in sub-paragraph (1)(a) above); or
- (b) that a Commissioner or a court has taken a different view of the law from that previously understood and applied by the adjudication officer.

(6) Where, by virtue of sub-paragraph (1)(b) or (2) above—

- (a) a decision is made under section 10 which is advantageous to the applicant; and
- (b) the same decision could have been made on a review prior to 6th September 1999,

that decision shall take effect from the date on which it would have taken effect had the decision been so made.

4.—(1) A decision (other than a decision of a social security appeal tribunal, a medical appeal tribunal or a Commissioner), made before 6th September 1999—

- (a) on a claim for; or
- (b) under or by virtue of Part II of the Administration Act in relation to,

a relevant benefit, shall be treated on or after that date as a decision of the Secretary of State under paragraph (a) or, as the case may be, paragraph (c) of section 8(1).

(2) Where, before 6th September 1999, any person was required to give notice to the claimant of a decision referred to in paragraph (1) above, and such notice has not been given to the claimant before that date, the Secretary of State shall on or after that date give notice to the claimant of that decision.

5.—(1) This paragraph applies where the time limit for making an appeal to a social security appeal tribunal or a medical appeal tribunal in respect of a decision in relation to a relevant benefit made before 6th September 1999 has not expired before that date.

(2) Where sub-paragraph (1) applies, regulation 3 of the Adjudication Regulations as it relates to the period within which an appeal may be made, or an extension of that period, shall, notwithstanding regulation 59 of the Regulations, continue to have effect, subject to the modifications in sub-paragraph (3) below, with respect to any appeal to an appeal tribunal made on or after 6th September 1999 in relation to that decision.

(3) The modifications referred to in sub-paragraph (2) above are as if—

(a) references to—

(i) a chairman or a person considering the application were references to a legally qualified panel member;

(ii) a tribunal were references to an appeal tribunal constituted under Chapter I of Part I of the Act;

(b) in paragraph (3E)(43) for the words from “6 years” to the end of the paragraph there were substituted the words “6th October 2000”.

(4) Notwithstanding regulation 3 of the Regulations, the Secretary of State may revise under section 9 a decision given before 6th September 1999 on a claim for or award of a relevant benefit (other than a decision given on appeal)—

(a) pursuant to an application for a review of a decision made within three months of the notification of that decision; or

(b) where an appeal has been duly made against that decision but not determined.

(5) Where a decision is revised pursuant to sub-paragraph (4) above the appeal shall lapse unless the decision as revised is not more advantageous to the appellant than the decision before it was revised.

6. An appeal to a social security appeal tribunal or a medical appeal tribunal in relation to a relevant benefit which was duly made before 6th September 1999 and which has not been determined before that date shall, without prejudice to Chapter III of Part V of the Regulations, be treated on or after that date as an appeal duly made to an appeal tribunal in relation to a decision of the Secretary of State under section 8.

7.—(1) This paragraph applies where a clerk to—

(a) a social security appeal tribunal; or

(b) a medical appeal tribunal,

has before 6th September 1999 given a direction under regulation 22(1) or, as the case may be, 38(1) of the Adjudication Regulations in connection with an appeal in relation to a relevant benefit to that tribunal, and the notification mentioned in paragraph (1A)(44) of that regulation 22 or paragraph (1A)(a) of that regulation 38 has not been received by the clerk before that date.

(2) A notification in response to such a direction given under that regulation 22(1) or regulation 38(1) shall be—

(a) in writing; and

(b) made within 14 days of receipt of the direction or within such other period as the clerk to an appeal tribunal may direct.

(43) Regulation 22(1A) and regulation 38(1A) were inserted by S.I. 1996/2540.

(44) S.I. 1987/1968; relevant amending instruments are S.I. 1992/247, 1993/2113, 1994/2319 and 1996/1460 and 2306.

Status: This is the original version (as it was originally made).

(3) An appeal may be struck out by the clerk to an appeal tribunal where the notification referred to in sub-paragraph (2) above is not received within the period specified in that sub-paragraph.

(4) An appeal which has been struck out in accordance with sub-paragraph (3) above shall be treated for the purpose of reinstatement as if it had been struck out under regulation 46 of the Regulations.

(5) An oral hearing of the appeal shall be held where—

- (a) a notification is received by the clerk to the appeal tribunal under sub-paragraph (2) above; or
- (b) the chairman of the appeal tribunal or, in the case of an appeal tribunal which has only one member, that member is satisfied that such a hearing is necessary to enable the appeal tribunal to reach a decision.

8. Where an appeal to a social security appeal tribunal or a medical appeal tribunal in relation to a relevant benefit has been struck out under regulation 7 of the Adjudication Regulations, a legally qualified panel member may on or after 6th September 1999, on an application made by any party to the proceedings not later than three months from the date of the order under paragraph (1) of that regulation, reinstate the appeal if he is satisfied that—

- (a) the applicant did not receive a notice under paragraph (2) of that regulation; and
- (b) the conditions in paragraph (2A) of that regulation were not satisfied,

and the appeal shall then be treated as an appeal to an appeal tribunal in relation to a decision of the Secretary of State under section 8.

9. An appeal tribunal shall completely rehear any appeal to a social security appeal tribunal or a medical appeal tribunal in relation to a relevant benefit which stands adjourned immediately before 6th September 1999.

10. A copy of a statement of—

- (a) the reasons for a decision of a social security appeal tribunal or, as the case may be, a medical appeal tribunal in relation to a relevant benefit; and
- (b) its findings on questions of fact material thereto,

shall be supplied to each party to the proceedings before that tribunal, if requested by any such party within 21 days of the date on which notification of that decision was given or sent.

11.—(1) Subject to sub-paragraph (2) below, any decision of a social security appeal tribunal or a medical appeal tribunal in relation to a relevant benefit shall be treated as a decision of an appeal tribunal made under section 12.

(2) Where sub-paragraph (1) above applies, any application for leave to appeal which is made for the purposes of section 14(10)(a) shall be made no later than three months after the date on which a copy of the statement of the decision of the social security appeal tribunal or, as the case may be, the medical appeal tribunal was given or sent to the applicant.

12.—(1) Subject to sub-paragraph (3) below, regulation 10 of the Adjudication Regulations, and regulation 3 of those Regulations in so far as it relates to that regulation 10, shall, notwithstanding regulation 59 of the Regulations, continue to have effect, subject to the modifications specified in sub-paragraph (2) below, in relation to any application to set aside a decision of a social security appeal tribunal or a medical appeal tribunal in relation to a relevant benefit.

(2) The modifications referred to in sub-paragraph (1) above are as if in—

- (a) regulation 3 for the reference to a chairman there were substituted a reference to a legally qualified panel member; and

(b) regulation 10(1) the first reference to the adjudicating authority which gave the decision or to an authority of like status were a reference to an appeal tribunal constituted under Chapter I of Part I of the Act.

(3) Paragraph (1) above shall not apply in any case where an application to set aside a decision of a social security appeal tribunal or a medical appeal tribunal is made after 6th October 2000.

13. Where, immediately before 6th September 1999, payment of a relevant benefit was suspended or withheld by virtue of any provision of Part V of the Social Security (Claims and Payments) Regulations 1987(45) (suspension and extinguishment), the provisions of Chapter I of Part III of the Regulations (suspension and termination) shall apply with respect to that suspension or withholding as if it were a suspension imposed by virtue of those provisions.

14. For the purpose of section 10(1)(b), a decision of a Commissioner made before 6th September 1999 as respects a relevant benefit shall be treated as a decision of a Commissioner made under section 14.

15. A determination of the Secretary of State (including a determination made following a change of circumstances) whether a person is, or is to be treated as, capable or incapable of work shall be conclusive for the purposes of any decision which falls to be made—

- (a) under a relevant enactment; or
- (b) on a claim for or award of—
 - (i) housing benefit; or
 - (ii) council tax benefit.

16.—(1) Where before 29th November 1999, in relation to a determination for any purpose to which Part XIIA of the Contributions and Benefits Act(46) applies, a determination falls to be made as to—

- (a) whether a person is, or is to be treated as, capable or incapable of work in respect of any period; or
- (b) whether a person is terminally ill,

that determination shall be made by the Secretary of State, notwithstanding—

- (i) regulation 1(2)(e) and (f) of the Regulations; and
- (ii) that other matters fall to be determined by another authority.

(2) An appeal shall lapse where the Secretary of State makes a determination pursuant to subparagraph (1) above in relation to a case where an appeal against a decision of an adjudication officer has been made but not determined provided that the decision as revised is more advantageous to the appellant than the decision before it was revised.

(3) Where—

- (a) the Secretary of State reverses a determination under section 171C of the Contributions and Benefits Act that a person satisfies or is treated as satisfying the all work test; and
- (b) that determination which is reversed is necessary to or embodied in a decision in relation to which Part II of the Administration Act continues to have effect,

an adjudication officer shall revise that decision upon review in consequence of that reversal.

17.—(1) An appeal made by or on behalf of a person against a decision of an adjudication officer (other than a decision in relation to a relevant benefit) which incorporates a determination as to whether the all work test is satisfied or treated as satisfied—

(45) Part XIIA was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 5.

(46) S.I. 1995/311.

Status: This is the original version (as it was originally made).

- (a) shall be heard by a social security appeal tribunal which consists of two persons, one being a medically qualified panel member and the other being a legally qualified panel member; and
 - (b) may be heard with an appeal made by or on behalf of the same person against a decision of the Secretary of State which incorporates such a determination.
- (2) Where an appeal to which sub-paragraph (1) above applies is heard with an appeal to an appeal tribunal—
- (a) section 13 shall not apply in relation to the appeal to the appeal tribunal; and
 - (b) notwithstanding regulation 59 of the Regulations, regulation 24 of the Adjudication Regulations and regulation 3 of, and Schedule 2 to, those Regulations in so far as they relate to regulation 24 shall have effect on and after 6th September 1999 in relation to the appeal to the appeal tribunal subject to the modifications specified in sub-paragraph (3) below.
- (3) The modifications referred to in sub-paragraph (2) above are as if references in the provisions described in that sub-paragraph to—
- (a) an adjudication officer were to the Secretary of State;
 - (b) an appeal tribunal were to an appeal tribunal constituted under Chapter I of Part I of the Act;
 - (c) the clerk to the tribunal were to a clerk to an appeal tribunal constituted under Chapter I of Part I of the Act;
 - (d) the chairman of an appeal tribunal and a chairman of appeal tribunals were to a chairman of an appeal tribunal constituted under Chapter I of Part I of the Act or, in the case of a tribunal which has only one member, that member; and
 - (e) the words “under section 41(4) of the Administration Act” were omitted.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the coming into force on 6th September 1999 of further provisions of the Social Security Act 1998 (“the Act”) so as to introduce on that date—as respects retirement pension, widow’s benefit, incapacity benefit, severe disablement allowance and maternity allowance (“the relevant benefits”)—the new arrangements for decision-making and appeals provided for in Chapter II of Part I of the Act.

From 6th September 1999 the Secretary of State will determine whether claimants are incapable of work for the purposes of claims for or awards of benefit notwithstanding that other matters in relation to such claims or awards fall to be determined by adjudication officers or local authorities (article 2(a) and (b)).

The provisions brought into force by article 2(c) and Schedule 1 relate in particular to the transfer of decision-making functions from adjudication officers to the Secretary of State, and from social security appeal tribunals and medical appeal tribunals to appeal tribunals constituted under Chapter I of Part I of the Act, and provide for the exercise of such functions under the provisions of Chapter

II of that Part (which replace the adjudication arrangements currently in force under Part II of the Social Security Administration Act 1992) (“the Administration Act”).

This Order makes consequential amendments in other statutory instruments in so far as they are concerned with, or make reference to, existing arrangements for decision-making and appeals (article 3 and Schedules 3 to 6 and 9 to 11). Certain other provisions are modified in relation to relevant benefits, pending their amendment once Chapter II of Part I is fully in force in relation to all benefits (article 3 and Schedules 2, 7 to 9 and 13).

This Order makes transitional provision, in particular as to—

- (a) the manner in which matters which, immediately before 6th September 1999, are awaiting determination under the existing arrangements for decision-making and appeals; and
- (b) the procedure for determining whether claimants are incapable of work,

are to be dealt with on or after that date (article 4 and Schedule 13).

Savings are made as respects certain provisions of the Administration Act and regulations made under them in relation to certain decisions taken by the Secretary of State before 1st April 1999 (article 5).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions have been brought into force by the Social Security Act 1998 (Commencement No. 1) Order 1998 (S.I. [1998/2209](#)), the Social Security Act 1998 (Commencement No. 2) Order 1998 (S.I. [1998/2780](#)), the Social Security Act 1998 (Commencement No. 3) Order 1999 (S.I. [1999/418](#)), the Social Security Act 1998 (Commencement No. 4) Order 1999 (S.I. [1999/526](#)), the Social Security Act 1998 (Commencement No. 5) Order 1999 (S.I. [1999/528](#)), the Social Security Act 1998 (Commencement No. 6) Order 1999 (S.I. [1999/1055](#)), the Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. [1999/1510](#)) and the Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. [1999/1958](#)).

<i>Provision of Social Security Act 1998</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
* (47) section 1(a)	5th July 1999	1999/1958
section 1(c)	1st June 1999	1999/1510
section 2 (except section 2(2) (a))	8th September 1998	1998/2209
*section 2(2)(a)	5th July 1999	1999/1958
section 3	8th September 1998	1998/2209
*section 4(1)(a) and (2)(a)	5th July 1999	1999/1958
section 4(1)(b) and (2)(b)	1st June 1999	1999/1510
section 5	1st June 1999	1999/1510
sections 6 and 7	4th March and 1st June 1999	1999/528 and 1510

(47) In this note an asterisk indicates that the provision or provisions in the entry to which it relates has or have been commenced in part only.

Status: This is the original version (as it was originally made).

<i>Provision of Social Security Act 1998</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
*section 8(1)(a) and (c), (2), (3)(a) and (g), (4) and (5)	5th July 1999	1999/1958
*sections 9 to 12	4th March and 5th July 1999	1999/528 and 1958
*section 13	5th July 1999	1999/1958
*section 14 and Schedule 4	4th March and 5th July 1999	1999/528 and 1958
*section 15	4th March and 5th July 1999	1999/528 and 1958
*section 16 and Schedule 5	8th September 1998, 4th March, 6th April and 5th July 1999	1998/2209 and 1998/2209 and 1999/528 and 1958
*sections 17 and 18(1)	4th March and 5th July 1999	1999/528 and 1958
*section 19	5th July 1999	1999/1958
*sections 20 to 26 (except section 26(8))	4th March and 5th July 1999	1999/528 and 1958
section 26(8)	1st June 1999	1999/1510
*section 27	5th July 1999	1999/1958
*section 28	4th March and 5th July 1999	1999/528 and 1958
*sections 29 and 30	5th July 1999	1999/1958
*section 31(2) and (3)	4th March 1999	1999/528
*section 38(1)(a) and (3)	4th March 1999	1999/528
*section 39	5th July 1999	1999/1958
section 40	16th November and 7th December 1998	1998/2780
sections 41 to 44	4th March and 1st June 1999	1999/528 and 1510
*section 45 in so far as it inserts section 3A(1), (3) and (4) into the Vaccine Damage Payments Act 1979(48)	4th March 1999	1999/528
*section 46 in so far as it substitutes section 4(2) and (3) of the Vaccine Damage Payments Act 1979	4th March 1999	1999/528
*section 47 in so far as it inserts section 7A into the Vaccine Damage Payments Act 1979	4th March 1999	1999/528
sections 48 and 49	8th September 1998	1998/2209
section 50(1)	8th September 1998	1998/2209

(48) 1979 c. 17.

<i>Provision of Social Security Act 1998</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
section 51	23rd February and 6th April 1999	1999/418
section 52	8th September 1998	1998/2209
section 53	8th September 1998 and 6th April 1999	1998/2209
section 54	4th March and 6th April 1999	1999/526
section 55	8th September 1998	1998/2209
section 56	4th March and 6th April 1999	1999/526
section 57	4th March and 6th April 1999	1999/526
section 59	8th September 1998	1998/2209
section 60	4th March and 6th April 1999	1999/526
section 61	4th March and 6th April 1999	1999/526
section 62	6th April 1999	1999/526
section 63	4th March and 6th April 1999	1999/526
section 64	6th April 1999	1999/526
section 65	8th September 1998 and 6th April 1999	1998/2209
section 68	8th September 1998	1998/2209
sections 70 and 71	5th April 1999	1999/1055
section 73	6th April 1999	1998/2209
section 74	4th March 1999	1999/528
section 75	5th October 1998	1998/2209
section 76	16th November 1998	1998/2780
Schedule 1, paragraphs 1 to 9 and 11 to 13	4th March and 1st June 1999	1999/528 and 1510
*Schedule 2, paragraphs 4, 5, 6(a) and 9	4th March and 5th July 1999	1999/528 and 1958
*Schedule 3, paragraphs 1 to 3(a), 4 to 7 and 9	4th March and 5th July 1999	1999/528 and 1958
Schedule 7 in the respects specified below and section 86(1) in so far as it relates to them—		
paragraphs 1 and 2	1st June 1999	1999/1510
*paragraph 4(2)	1st June 1999	1999/1510
paragraph 4(3)	1st June 1999	1999/1510
*paragraphs 8 and 9	4th March 1999	1999/528

Status: This is the original version (as it was originally made).

<i>Provision of Social Security Act 1998</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
*paragraph 11	5th July 1999	1999/1958
paragraphs 12 to 14	6th April 1999	1999/526
paragraph 16	6th April 1999	1999/418
paragraphs 18 to 26	1st June 1999	1999/1510
paragraph 27	8th September 1998 and 1st June 1999	1998/2209 and 1999/1510
paragraphs 28 to 34	1st June 1999	1999/1510
paragraph 35	4th March and 1st June 1999	1999/528 and 1510
paragraphs 36 to 38	1st June 1999	1999/1510
paragraph 39	4th March and 1st June 1999	1999/528 and 1510
paragraph 40	4th March and 1st June 1999	1999/528 and 1510
paragraphs 41 and 42	1st June 1999	1999/1510
paragraphs 43 and 44	4th March and 1st June 1999	1999/528 and 1510
paragraph 45	1st June 1999	1999/1510
paragraph 46	16th November 1998, 4th March and 1st June 1999	1998/2780 and 1999/528 and 1510
*paragraph 47	1st June 1999	1999/1510
paragraph 48	1st June 1999	1999/1510
paragraph 49	8th September 1998 and 1st June 1999	1998/2209 and 1999/1510
paragraphs 50 and 51	1st June 1999	1999/1510
paragraphs 52 to 54	4th March and 1st June 1999	1999/528 and 1510
paragraph 56	8th September 1998 and 6th April 1999	1998/2209
paragraph 57	6th April 1999	1998/2209
paragraph 58(1)	6th April 1999	1999/418
paragraph 58(2)	6th April 1999	1998/2209
paragraphs 59 to 61	6th April 1999	1999/418
*paragraphs 63 to 70	5th July 1999	1999/1958
*paragraph 71	8th September 1998, 6th April and 5th July 1999	1998/2209, 1999/418 and 1958
paragraph 72(3) and (4)	5th April 1999	1999/1055
paragraphs 74, 75 and 77(2) to (5)	6th April 1999	1999/418

<i>Provision of Social Security Act 1998</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
paragraph 77(1), (6) to (9), (11), (12) and (14) to (16)	8th September 1998 and 6th April 1999	1998/2209
*paragraphs 79(1), 81 and 84	5th July 1999	1999/1958
paragraph 85	6th April 1999	1999/526
paragraph 86	6th April 1999	1998/2209 and 1999/526
paragraph 87	6th April 1999	1999/526
*paragraphs 88 and 89	5th July 1999	1999/1958
paragraph 90	6th April 1999	1999/418
paragraph 91	8th September 1998 and 6th April 1999	1998/2209
paragraph 92 to 94	6th April 1999	1999/418
paragraph 99	8th September 1998 and 6th April 1999	1998/2209, 1999/418 and 526
paragraph 100	6th April 1999	1998/2209 and 1999/526
*paragraphs 101 and 102	5th July 1999	1999/1958
paragraph 104	4th March 1999	1999/528
paragraph 105	5th July 1999	1999/1958
*paragraphs 106 to 108	5th July 1999	1999/1958
paragraph 110(1)(a)	8th September 1998 and 6th April 1999	1998/2209
paragraph 110(1)(b)	6th April 1999	1999/418
*paragraph 111(b)	5th July 1999	1999/1958
paragraph 114	8th September 1998 and 6th April 1999	1998/2209
*paragraph 115	5th July 1999	1999/1958
*paragraph 118(1)	1st June 1999	1999/1510
*paragraph 121	4th March 1999	1999/528
paragraph 121(1)	1st June 1999	1999/1510
paragraphs 122, 123(1) (b) and 124(1)(b)	1st June 1999	1999/1510
paragraphs 123(2) and 124(2)	1st June 1999	1999/1510
paragraphs 126 to 128	6th April 1999	1999/418
*paragraphs 129 and 130(2)	5th July 1999	1999/1958

Status: This is the original version (as it was originally made).

<i>Provision of Social Security Act 1998</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
*paragraph 131	4th March and 5th July 1999	1999/528 and 1958
paragraph 133	6th April 1999	1999/418
*paragraph 149	4th March 1999	1999/528
*section 86(2) and Schedule 8	8th September 1998, 5th and 6th April, 1st June and 5th July 1999	1998/2209, 1999/418, 526, 1055, 1510 and 1958