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STATUTORY INSTRUMENTS

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**1999 No. 991**

**SOCIAL SECURITY  
FAMILY LAW  
CHILD SUPPORT**

**The Social Security and Child Support  
(Decisions and Appeals) Regulations 1999**

*Made - - - - 26th March 1999*

*Coming into force in accordance with regulation 1(2)*

<sup>M1</sup> Whereas a draft of this Instrument was laid before Parliament in accordance with section 80(1) of the Social Security Act 1998 and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State for Social Security, in exercise of powers set out in Schedule 1 to this Instrument and of all other powers enabling him in that behalf, with the concurrence of the Lord Chancellor in so far as the Regulations are made under section 6(3) of the Social Security Act 1998, by this Instrument, which contains only regulations made by virtue of, or consequential upon, those provisions of the Social Security Act 1998 and which is made before the end of the period of six months beginning with the coming into force of those provisions<sup>M2</sup>, after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992<sup>M3</sup>, hereby makes the following Regulations:

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**Modifications etc. (not altering text)**

- C1** Instrument applied (with modifications) (1.10.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) Regulations 2010 \(S.I. 2010/1907\)](#), **reg. 16(2)(e)(iii)(3)** (with reg. 3)
- C2** Instrument applied (with modifications) (1.10.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) Regulations 2010 \(S.I. 2010/1907\)](#), regs. 1(2), 6(1), (2)(e), **Sch. 1** (with reg. 3)
- C3** Instrument modified (23.3.2015) by [The Child Support \(Miscellaneous and Consequential Amendments\) Regulations 2015 \(S.I. 2015/338\)](#), **reg. 6**

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**Marginal Citations**

- M1** 1998 c.14 .
- M2** See section 173(5)(b) of the [Social Security Administration Act 1992 \(c.5\)](#).

M3 1992 c.53 .

## PART I GENERAL

### Citation, commencement<sup>[F1]</sup>, application and interpretation]

1.—(1) These Regulations may be cited as the Social Security and Child Support (Decisions and Appeals) Regulations 1999.

(2) These Regulations shall come into force—

- (a) in so far as they relate to child support and for the purposes of this regulation and regulation 2 on 1st June 1999;
- (b) in so far as they relate to—
  - (i) industrial injuries benefit, guardian’s allowance and child benefit; and
  - (ii) a decision made under the Pension Schemes Act 1993 <sup>M4</sup> by virtue of section 170(2) of that Act;
 

on 5th July 1999;
- (c) in so far as they relate to retirement pension, widow’s benefit, incapacity benefit, severe disablement allowance and maternity allowance, on 6th September 1999;
- (d) in so far as they relate to [<sup>F2</sup>family credit and disability working allowance [<sup>F2</sup>working families’ tax credit and disabled person’s tax credit]], on 5th October 1999;
- (e) in so far as they relate to attendance allowance, disability living allowance, invalid care allowance, jobseeker’s allowance, credits of contributions or earnings, home responsibilities protection and vaccine damage payments, on 18th October 1999; and
- (f) for all remaining purposes, on 29th November 1999.

[<sup>F3</sup>(2A) In so far as these Regulations relate to—

- (a) an employment and support allowance payable under the Welfare Reform Act, they apply only in so far as the Act has effect apart from the amendments made by Schedule 3 and Part 1 of Schedule 14 to the Welfare Reform Act 2012 (“ the 2012 Act ”) (removing references to an income-related allowance);
- (b) a jobseeker's allowance payable under the Jobseekers Act 1995, they apply only in so far as the Act has effect apart from the amendments made by Part 1 of Schedule 14 to the 2012 Act (removing references to an income-based allowance).

(2B) These Regulations do not apply to universal credit (within the meaning of Part 1 of the Welfare Reform Act 2012) or personal independence payment (within the meaning of Part 4 of that Act).]

(3) In these Regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1998;

“the 1997 Act” means the Social Security (Recovery of Benefits) Act 1997 <sup>M5</sup>;

[<sup>F4</sup>[<sup>F5</sup>“the Arrears, Interest and Adjustment of Maintenance Assessments Regulations” means the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992;]]

[<sup>F6</sup>“assessed income period” is to be construed in accordance with sections 6 and 9 of the State Pension Credit Act;]

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987 <sup>M6</sup>;

“appeal” means an appeal to [<sup>F7</sup>an appeal tribunal [<sup>F7</sup>the First-tier Tribunal]];

[<sup>F8</sup>“bereavement allowance” means an allowance under section 39B of the Contributions and Benefits Act;]

[<sup>F9</sup>“bereavement benefit” means—

- (a) [<sup>F10</sup>a bereavement allowance;][<sup>F10</sup>bereavement support payment under section 30 of the Pensions Act 2014; or]
- (b) [<sup>F10</sup>a bereavement payment; or][<sup>F10</sup>bereavement support payment under section 30 of the Pensions Act 2014; or]
- (c) a widowed parent’s allowance;]

[<sup>F8</sup>“bereavement payment” means a bereavement payment under section 36 of the Contributions and Benefits Act; ]

[<sup>F11</sup>“the Board” means the Commissioners [<sup>F12</sup>of Inland Revenue][<sup>F12</sup>for Her Majesty’s Revenue and Customs;]]

<sup>F13</sup> ...

“claimant” means—

- (a) any person who is a claimant for the purposes of section 191 of the Administration Act [<sup>F14</sup>section 35(1) of the Jobseekers Act[<sup>F15</sup>, section 17(1) of the State Pension Credit Act or section 24(1) of the Welfare Reform Act]] or any other person from whom benefit is alleged to be recoverable; and
- (b) any person subject to a decision of [<sup>F16</sup>an officer of the Board] under the Pension Schemes Act 1993 <sup>M7</sup>;

[<sup>F17</sup>“clerk to the appeal tribunal” means a clerk assigned to the appeal tribunal in accordance with regulation 37;]

<sup>F18</sup> ...

[<sup>F19</sup>“contribution-based jobseeker’s allowance” means a contribution-based jobseeker’s allowance under Part 1 of the Jobseekers Act;]

[<sup>F20</sup>“contributory employment and support allowance” means a contributory allowance under Part 1 of the Welfare Reform Act;]

<sup>F21</sup>[<sup>F22</sup>“couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household; or
- (b) two people who are not married to, or civil partners of, each other but are living together [<sup>F23</sup>as if they were a married couple or civil partners];]

“the date of notification” means—

- (a) the date that notification of a decision of the Secretary of State [<sup>F24</sup>or an officer of the Board] is treated as having been given or sent in accordance with regulation 2(b); <sup>F25</sup>...
- (b) in the case of a social fund payment arising in accordance with regulations made under section 138(2) of the Contributions and Benefits Act—

- (i) the date seven days after the date on which the Secretary of State makes his decision to make a payment to a person to meet expenses for heating;
  - (ii) where a person collects the instrument of payment at a post office, the date the instrument is collected;
  - (iii) where an instrument of payment is sent to a post office for collection but is not collected and a replacement instrument is issued, the date on which the replacement instrument is issued; or
  - (iv) where a person questions his failure to be awarded a payment for expenses for heating, the date on which the notification of the Secretary of State's decision given in response to that question is issued<sup>[F26]</sup>; or
- (c) where notification of a decision of the Secretary of State is sent by means of an electronic communication (within the meaning given in section 15(1) of the Electronic Communications Act 2000), the date on which the notification is sent.]

<sup>[F27]</sup>“the Deferral of Retirement Pensions etc. Regulations ” means the Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005;]

<sup>[F28]</sup><sup>[F29]</sup>“designated authority” has the meaning it has in regulation 2(1) of the Work-focused Interviews Regulations;]

<sup>[F28]</sup>“designated authority” means—

- (a) the Secretary of State;
- (b) a person providing services to the Secretary of State;
- (c) a local authority;
- (d) a person providing services to, or authorised to exercise any functions of, any such authority;]]

<sup>[F30]</sup>“the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;

<sup>[F31]</sup>“failure determination” means a determination by the Secretary of State under regulation 61(2) of the Employment and Support Allowance Regulations or regulation 8(2) of the Employment and Support Allowance (Work-Related Activity) Regulations 2011 that a claimant has failed to satisfy a requirement of regulation 54 of the Employment and Support Allowance Regulations (requirement to take part in a work-focused interview) or regulation 3 of the Employment and Support Allowance (Work-Related Activity) Regulations 2011 (requirement to undertake work-related activity).]]

<sup>[F32]</sup>“family” has the same meaning as in section 137 of the Contributions and Benefits Act;]

<sup>F33</sup>  
...

<sup>[F34]</sup>“the Graduated Retirement Benefit Regulations” means the Social Security (Graduated Retirement Benefit) Regulations 2005;]

<sup>[F35]</sup>“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act;]

“the Income Support Regulations” means the Income Support (General) Regulations 1987 <sup>M8</sup>;

<sup>[F36]</sup>“Income Support Work-Related Activity Regulations” means the Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014;]

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996 <sup>M9</sup>;

[<sup>F37</sup>“a joint-claim couple” has the same meaning as in section 1(4) of the Jobseekers Act 1995;]

[<sup>F38</sup>“a joint-claim jobseeker’s allowance” has the same meaning as in section 1(4) of the Jobseekers Act 1995;]

[<sup>F39</sup>“legally qualified panel member” means a panel member who satisfies the requirements of paragraph 1 of Schedule 3;]

[<sup>F40</sup>“limited capability for work” has the same meaning as in section 1(4) of the Welfare Reform Act]

[<sup>F41</sup>“the Loans for Mortgage Interest Regulations” means the Loans for Mortgage Interest Regulations 2017;]

[<sup>F4</sup>[<sup>F42</sup>“the Maintenance Calculation Procedure Regulations” means the Child Support (Maintenance Calculation Procedure) Regulations 2000;]

[<sup>F4</sup>“the Maintenance Calculations and Special Cases Regulations” means the Child Support (Maintenance Calculations and Special Cases) Regulations 2000;]]

<sup>F43</sup> ...

[<sup>F44</sup>“medically qualified panel member” means a panel member who satisfies the requirements of paragraph 2 of Schedule 3;]

<sup>F45</sup> ...

[<sup>F46</sup>“official error” means an error made by—

- (a) an officer of the Department for Work and Pensions <sup>F47</sup> ... or the Board acting as such which no person outside the Department <sup>F47</sup> ... or the Inland Revenue caused or to which no person outside the Department <sup>F47</sup> ... or the Inland Revenue materially contributed;
- (b) a person employed by a designated authority acting on behalf of the authority, which no person outside that authority caused or to which no person outside that authority materially contributed,

but excludes any error of law which is shown to have been an error by virtue of a subsequent decision of [<sup>F48</sup>the Upper Tribunal] or the court;]

[<sup>F49</sup>“out of jurisdiction appeal” means an appeal brought against a decision which is specified in—

- (a) Schedule 2 to the Act or a decision prescribed in regulation 27 (decision against which no appeal lies); or
- (b) paragraph 6(2) of Schedule 7 to the Child Support, Pensions and Social Security Act 2000 (appeal to appeal tribunal) or a decision prescribed in regulation 16 of the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001 (decision against which no appeal lies) ;]

[<sup>F41</sup>“owner-occupier loan payments” means loan payments made under the Loans for Mortgage Interest Regulations;]

[<sup>F41</sup>“owner-occupier payments” has the same meaning as in Part 1 of Schedule 1 to the Loans for Mortgage Interest Regulations.]

<sup>F50</sup> ...

[<sup>F51</sup>“panel” means the panel constituted under section 6;]

[<sup>F52</sup>“panel member” means a person appointed to the panel;]

[<sup>F53</sup>“panel member with a disability qualification” means a panel member who satisfies the requirements of paragraph 5 of Schedule 3;]

[<sup>F54</sup>“partner” means—

- (a) where a person is a member of [<sup>F55</sup>a couple], the other member of that couple; or
- (b) where a person is polygamously married to two or more members of his household, any such member;]

“party to the proceedings” means the Secretary of State <sup>F56</sup>... [<sup>F57</sup>or, as the case may be, the Board or an officer of the Board,] and any other person—

- (a) who is one of the principal parties for the purposes of sections 13 and 14;
- (b) who has a right of appeal to [<sup>F58</sup>an appeal tribunal [<sup>F58</sup>the First-tier Tribunal]] under section 11(2) of the 1997 Act <sup>M10</sup>, section 20 of the Child Support Act <sup>F59</sup>... [<sup>F60</sup>, section 2B(6) of the Administration Act] or section 12(2);

[<sup>F61</sup>“President” means the President of appeal tribunals appointed under section 5;]

“referral” means a referral of an application for a [<sup>F62</sup>variation] to [<sup>F63</sup>an appeal tribunal [<sup>F63</sup>the First-tier Tribunal]] under section 28D(1)(b) of the Child Support Act <sup>M11</sup>.

[<sup>F4</sup>[<sup>F64</sup>“relevant other child” is to be interpreted by reference to paragraph 10C(2) of Schedule 1 to the Child Support Act;]]

[<sup>F65</sup>“the Lump Sum Payments Regulations” means the Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008;]

[<sup>F4</sup>[<sup>F66</sup>except where otherwise provided “relevant person” means—

- (a) a person with care;
- (b) a non-resident parent;
- (c) a parent who is treated as a non-resident parent under regulation 8 of the Maintenance Calculations and Special Cases Regulations;
- (d) a child, where the application for a maintenance calculation is made by that child under section 7 of the Child Support Act,

in respect of whom a maintenance calculation has been applied for <sup>F67</sup>... or is or has been in force;]]

[<sup>F68</sup>“relevant credit” means a credit of contributions or earnings resulting from a decision in accordance with regulations made under section 22(5) of the Contributions and Benefits Act;]

[<sup>F69</sup>“Scottish disability benefit” means, as the context requires, either of the following benefits—

- (a) adult disability payment within the meaning given in regulation 2 of the Disability Assistance for Working Age People (Scotland) Regulations 2022; and
- (b) child disability payment within the meaning given in regulation 2 of the Disability Assistance for Children and Young People (Scotland) Regulations 2021;]

[<sup>F70</sup>“shared additional pension” means a shared additional pension under section 55A or 55AA of the Contributions and Benefits Act;]

[<sup>F71</sup>“state pension credit” means the benefit payable under the State Pension Credit Act ;

“State Pension Credit Act” means the State Pension Credit Act 2002;

“State Pension Credit Regulations” means the State Pension Credit Regulations 2002;]

[<sup>F72</sup>“tax credit” means working families' tax credit or disabled person's tax credit, construing those terms in accordance with section 1(1) of the Tax Credits Act 1999;]

[<sup>F73</sup>“the Transfer Act” means the Social Security Contributions (Transfer of Functions, etc.) Act 1999;]

[<sup>F4</sup>[<sup>F74</sup>“the Variations Regulations” means the Child Support (Variations) Regulations 2000.]]

[<sup>F75</sup>“the Welfare Reform Act” means the Welfare Reform Act 2007;]

[<sup>F76</sup>“widowed parent's allowance” means an allowance under section 39A of the Contributions and Benefits Act;]

[<sup>F77</sup>“work-focused interview” means an interview in which a person is required to take part in accordance with regulations made under section 2A or 2AA of the Administration Act;]

[<sup>F78</sup>“the Work-focused Interviews Regulations” means the Social Security (Work-focused Interviews) Regulations 2000;]

[<sup>F79</sup>(3A) In these Regulations as they relate to any decision made under the Pension Schemes Act 1993 by virtue of section 170(2) of that Act, any reference to the Secretary of State is to be construed as if it were a reference to an officer of the Board.]

- (4) In these Regulations, unless the context otherwise requires, a reference—
- (a) to a numbered section is to the section of the Act bearing that number;
  - (b) to a numbered Part is to the Part of these Regulations bearing that number;
  - (c) to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations bearing that number;
  - (d) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
  - (e) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

### Textual Amendments

- F1** Words in reg. 1 substituted (8.4.2013 for specified purposes, 29.4.2013 in so far as not already in force) by [The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance \(Decisions and Appeals\) Regulations 2013 \(S.I. 2013/381\)](#), reg. 1(2), **55(2)** (with reg. 1(3))
- F2** Words in reg. 1(2)(d) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), reg. 1, **3**
- F3** Reg. 1(2A)(2B) inserted (8.4.2013 for specified purposes, 29.4.2013 in so far as not already in force) by [The Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance \(Decisions and Appeals\) Regulations 2013 \(S.I. 2013/381\)](#), reg. 1(2), **55(3)** (with reg. 1(3))
- F4** Words in reg. 1(3) omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), reg. 1(4), **6(2)**
- F5** Words in reg. 1(3) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **2(a)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F6** Words in reg. 1(3) inserted (7.4.2003) by [State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), reg. 1(2)(a), **16(a)**

- F7** Words in reg. 1(3) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(a)** (with arts. 3(2)(a), 4)
- F8** Words in reg. 1(3) omitted (E+W+S) (6.4.2017 coming into force in accordance with art. 1-3) by virtue of The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (S.I. 2017/422), arts. 1(2), **15(2)(a)**
- F9** Words in reg. 1(3) inserted (1.1.2017) (E+W+S) by The Social Security (Credits, and Crediting and Treatment of Contributions) (Consequential and Miscellaneous Amendments) Regulations 2016 (S.I. 2016/1145), regs. 1, **4(2)(a)**
- F10** Words in reg. 1(3) substituted (E+W+S) (6.4.2017 coming into force in accordance with art. 1-3) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (S.I. 2017/422), arts. 1(2), **15(2)(b)**
- F11** Words in reg. 1(3) inserted (5.7.1999) by The Social Security Contributions (Transfer of Functions, etc.) Act 1999 (Commencement No. 2 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1662), arts. 1, **3(2)(a)(i)**
- F12** Words in reg. 1(3) substituted (1.1.2017) (E+W+S) by The Social Security (Credits, and Crediting and Treatment of Contributions) (Consequential and Miscellaneous Amendments) Regulations 2016 (S.I. 2016/1145), regs. 1, **4(2)(b)**
- F13** Words in reg. 1(3) omitted (21.3.2022) by virtue of The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **6(2)(a)**
- F14** Words in reg. 1(3) substituted (7.4.2003) by State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019), regs. 1(2)(a), **16(b)**
- F15** Words in reg. 1(3) substituted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **30(a)**
- F16** Words in reg. 1(3) substituted (5.7.1999) by The Social Security Contributions (Transfer of Functions, etc.) Act 1999 (Commencement No. 2 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1662), arts. 1, **3(2)(a)(ii)**
- F17** Words in reg. 1(3) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(e)(i)** (with arts. 3(2)(a), 4)
- F18** Words in reg. 1(3) omitted (1.8.2012) by virtue of The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(2)(a)**
- F19** Words in reg. 1(3) inserted (1.1.2017) (E+W+S) by The Social Security (Credits, and Crediting and Treatment of Contributions) (Consequential and Miscellaneous Amendments) Regulations 2016 (S.I. 2016/1145), regs. 1, **4(2)(c)**
- F20** Words in reg. 1(3) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **30(b)**
- F21** Words in reg. 1(3) substituted (16.12.2014) (S) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 6 para. 18**
- F22** Words in reg. 1(3) substituted (13.3.2014) (E+W) by The Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107), art. 1(2), **Sch. 1 para. 26**
- F23** Words in reg. 1(3) substituted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), reg. 1(2), **Sch. 3 para. 54**
- F24** Words in reg. 1(3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **4(a)**
- F25** Word in reg. 1(3) omitted (20.6.2011) by virtue of The Social Security (Electronic Communications) Order 2011 (S.I. 2011/1498), arts. 1(1), **5(2)(a)**
- F26** Words in reg. 1(3) inserted (20.6.2011) by The Social Security (Electronic Communications) Order 2011 (S.I. 2011/1498), arts. 1(1), **5(2)(b)**



- F27** Words in reg. 1(3) inserted (6.4.2006) by Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 (S.I. 2005/2677), regs. 1(1), **9(2)(b)**
- F28** Words in reg. 1(3) substituted (30.9.2002) by Social Security (Jobcentre Plus Interviews) Regulations 2002 (S.I. 2002/1703), reg. 1, **Sch. 2 para. 6(a)(i)**
- F29** Words in reg. 1(3) inserted (3.4.2000) by The Social Security (Work-focused Interviews) Regulations 2000 (S.I. 2000/897), reg. 1, **Sch. 6 para. 2(a)** (with reg. 2(5))
- F30** Words in reg. 1(3) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **30(c)**
- F31** Words in reg. 1(3) substituted (1.6.2011) by The Employment and Support Allowance (Work-Related Activity) Regulations 2011 (S.I. 2011/1349), regs. 1, **21**
- F32** Words in reg. 1(3) inserted (19.6.2000) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2000 (S.I. 2000/1596), regs. 1(1), **14(a)**
- F33** Words in reg. 1(3) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(e)(ii)**
- F34** Words in reg. 1(3) inserted (6.4.2006) by Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 (S.I. 2005/2677), regs. 1(1), **9(2)(a)**
- F35** Words in reg. 1(3) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **30(d)**
- F36** Words in reg. 1(3) inserted (28.4.2014) by The Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014 (S.I. 2014/1097), regs. 1(1), **12(2)**
- F37** Words in Reg. 1(3) inserted (19.3.2001) by The Social Security Amendment (Joint Claims) Regulations 2001 (S.I. 2001/518), regs. 1, **4(a)**
- F38** Words in reg. 1(3) inserted (19.3.2001) by The Social Security Amendment (Joint Claims) Regulations 2001 (S.I. 2001/518), regs. 1(1), **4(a)**
- F39** Words in reg. 1(3) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(e)(iii)** (with arts. 3(2)(a), 4)
- F40** Words in reg. 1(3) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **30(e)**
- F41** Words in reg. 1(3) inserted by S.I. 2017/725, Sch. 5 para. 11(2) (as inserted) (6.4.2018) by The Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018 (S.I. 2018/307), regs. 1(2), **2(18)(e)**
- F42** Words in reg. 1(3) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by The Child Support (Decisions and Appeals) (Amendment) Regulations 2000 (S.I. 2000/3185), reg. 1(1)(2), **2(b)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F43** Words in reg. 1(3) omitted (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of Welfare Reform Act 2009 (Section 26) (Consequential Amendments) Regulations 2010 (S.I. 2010/424), **reg. 4(2)**
- F44** Words in reg. 1(3) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(e)(iv)** (with arts. 3(2)(a), 4)
- F45** Words in reg. 1(3) omitted (21.12.2004) by virtue of Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368), regs. 1, **2(2)**
- F46** Words in reg. 1(3) substituted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **2(a)**
- F47** Words in reg. 1(3) omitted (1.8.2012) by virtue of The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(2)(b)**
- F48** Words in reg. 1(3) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(b)**

- F49** Words in reg. 1(3) substituted (5.5.2003) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1050), regs. 1(1)(a), **3(1)** (with reg. 6)
- F50** Words in reg. 1(3) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(e)(v)**
- F51** Words in reg. 1(3) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(e)(vi)** (with arts. 3(2)(a), 4)
- F52** Words in reg. 1(3) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(e)(vii)** (with arts. 3(2)(a), 4)
- F53** Words in reg. 1(3) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(e)(viii)** (with arts. 3(2)(a), 4)
- F54** Words in reg. 1(3) inserted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **2(b)**
- F55** Words in reg. 1(3) substituted (5.12.2005) by Social Security (Civil Partnership) (Consequential Amendments) Regulations 2005 (S.I. 2005/2878), regs. 1, **8(2)(b)**
- F56** Words in reg. 1(3) omitted (1.8.2012) by virtue of The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(2)(c)**
- F57** Words in reg. 1(3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **4(b)**
- F58** Words in reg. 1(3) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(c)** (with arts. 3(2)(a), 4)
- F59** Words in reg. 1(3) omitted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by virtue of The Child Support (Decisions and Appeals) (Amendment) Regulations 2000 (S.I. 2000/3185), reg. 1(1)(2), **2(c)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F60** Words in reg. 1(3) inserted (12.4.2004) by The Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003 (S.I. 2003/1886), regs. 1, **15(2)(a)**
- F61** Words in reg. 1(3) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(e)(ix)** (with arts. 3(2)(a), 4)
- F62** Word in reg. 1(3) substituted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by The Child Support (Decisions and Appeals) (Amendment) Regulations 2000 (S.I. 2000/3185), reg. 1(1)(2), **2(d)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F63** Words in reg. 1(3) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 96(d)** (with arts. 3(2)(a), 4)
- F64** Words in reg. 1(3) inserted (4.7.2011) by The Child Support (Miscellaneous Amendments) Regulations 2011 (S.I. 2011/1464), regs. 1(1), **2(2)**
- F65** Words in reg. 1(3) inserted (1.10.2008) by Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 (S.I. 2008/1596), reg. 1(1), **Sch. 2 para. 1(a)** (with reg. 6)
- F66** Words in reg. 1(3) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by The Child Support (Decisions and Appeals) (Amendment) Regulations 2000 (S.I. 2000/3185), reg. 1(1)(2), **2(e)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F67** Words in reg. 1(3) omitted (27.10.2008) by virtue of Child Support (Consequential Provisions) Regulations 2008 (S.I. 2008/2543), regs. 1, **4(2)**
- F68** Words in reg. 1(3) inserted (19.6.2000) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2000 (S.I. 2000/1596), regs. 1(1), **14(c)**
- F69** Words in reg. 1(3) inserted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **6(2)(b)**

- F70** Words in reg. 1(3) inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **18(2)**
- F71** Words in reg. 1(3) inserted (7.4.2003) by State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019), regs. 1(2)(a), **16(c)**
- F72** Words in reg. 1(3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **4(c)**
- F73** Words in reg. 1(3) added (5.7.1999) by The Social Security and Child Support (Decisions and Appeals) Amendment (No. 3) Regulations 1999 (S.I. 1999/1670), regs. 1(1), **2(2)**
- F74** Words in reg. 1(3) added (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by The Child Support (Decisions and Appeals) (Amendment) Regulations 2000 (S.I. 2000/3185), reg. 1(1)(2), **2(f)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F75** Words in reg. 1(3) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **30(f)**
- F76** Words in reg. 1(3) inserted (1.1.2017) (E+W+S) by The Social Security (Credits, and Crediting and Treatment of Contributions) (Consequential and Miscellaneous Amendments) Regulations 2016 (S.I. 2016/1145), regs. 1, **4(2)(d)**
- F77** Words in reg. 1(3) substituted (26.4.2004) by Social Security (Working Neighbourhoods) Regulations 2004 (S.I. 2004/959), regs. 1, **24(2)**
- F78** Words in reg. 1(3) omitted (30.9.2002) by virtue of Social Security (Jobcentre Plus Interviews) Regulations 2002 (S.I. 2002/1703), reg. 1, **Sch. 2 para. 6(a)(iii)**
- F79** Reg. 1(3A) inserted (5.7.1999) by The Social Security Contributions (Transfer of Functions, etc.) Act 1999 (Commencement No. 2 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1662), arts. 1, **3(2)(b)**

#### Modifications etc. (not altering text)

- C4** Reg. 1(3) applied by S.I. 1996/207 Sch. 8 para. 12(2) (as added) (14.10.2002) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2002 (S.I. 2002/2380), regs. 1(b), **3(c)**
- C5** Reg. 1(3) applied by S.I. 1987/1967 Sch. 10 para. 7(2) (as added) (14.10.2002) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2002 (S.I. 2002/2380), regs. 1(b), **2(b)(ii)**
- C6** Reg. 1(3) applied by Sch. 5 para. 20A 2002 SI1792 (as inserted (6.10.2003) by State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) (No.2) Regulations 2002 (S.I. 2002/3197), reg. 1(1)(b), **Sch. para. 12(d)**)
- C7** Reg. 1(3) applied by 2002 SI1792 Sch. 5 Pt. 1 para 20A(4) (as substituted (6.10.2003) by State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **2(12)(f)**)

#### Marginal Citations

- M4** 1993 c.48; section 170 was substituted by paragraph 131 of Schedule 7 to the Social Security Act 1998.
- M5** 1997 c.27.
- M6** S.I. 1987/1968.
- M7** 1993 c.48.
- M8** S.I. 1987/1967.
- M9** S.I. 1996/207.
- M10** Section 11(2) is amended by paragraph 150(2) of Schedule 7 to the Social Security Act 1998.
- M11** Section 28D was inserted by section 4 of the Child Support Act 1995 (c.34).

#### Service of notices or documents

2. Where, by any provision of the Act [<sup>F80</sup>, of the Child Support Act] or of these Regulations—

- (a) any notice or other document is required to be given or sent <sup>F81</sup>... to an officer authorised by the Secretary of State [<sup>F82</sup>or to an officer of the Board], that notice or document shall be treated as having been so given or sent on the day that it is received <sup>F83</sup>... by an officer authorised by the Secretary of State [<sup>F84</sup>or by an officer of the Board], as the case may be, and
- (b) any notice (including notification of a decision of the Secretary of State) or other document is required to be given or sent to any person other than <sup>F85</sup>... [<sup>F86</sup>to an officer <sup>F85</sup>... [<sup>F86</sup>an officer]] authorised by the Secretary of State [<sup>F87</sup>or an officer of the Board], as the case may be, that notice or document shall, if sent by post to that person's last known address, be treated as having been given or sent on the day that it was posted.

#### Textual Amendments

- F80** Words in reg. 2 inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2)) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#) , reg. 1(1)(2)**3** (with reg. 14(3) ) (see S.I. 2003/192, arts. 3, 7, Sch.)
- F81** Words in reg. 2(a) omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 97(a)(i)**
- F82** Words in reg. 2(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **5(a)(i)**
- F83** Words in reg. 2(a) omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 97(a)(ii)**
- F84** Words in reg. 2(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **5(a)(ii)**
- F85** Words in reg. 2(b) omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 97(b)**
- F86** Words in reg. 2(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **5(b)(ii)**
- F87** Words in reg. 2(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **5(b)(iii)**

#### Modifications etc. (not altering text)

- C8** Reg. 2(b) modified (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/127\)](#) , regs. 1(1) , **2(b)**

## PART II

### <sup>F88</sup>REVISIONS, SUPERSESIONS AND OTHER MATTERS SOCIAL SECURITY [<sup>F89</sup>AND CHILD SUPPORT]

#### Textual Amendments

- F88** Pts. II III IV revoked (7.4.2003 for specified purposes and with effect in accordance with reg. 1(2)) by [The Child Benefit and Guardian s Allowance \(Decisions and Appeals\) Regulations 2003 \(S.I. 2003/916\)](#) , regs. 1(1) , **34(a)** (with reg. 35 )

**F89** Words in Pt. II added (3.3.2003 for specified purposes and ) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#) , [reg. 1\(1\)\(2\)4](#) (with [reg. 14\(3\)](#) ) (see S.I. 2003/192, art. 3, Sch.)

## CHAPTER I

### REVISIONS

#### Revision of decisions

**3.—(1)** Subject to the following provisions of this regulation, any decision of the Secretary of State [<sup>F90</sup>or the Board or an officer of the Board] under section 8 or 10 (“the original decision”) may be revised by him [<sup>F91</sup>or them] if—

- <sup>F92</sup>(a) he or they commence action leading to revision within one month of the date of notification of the original decision; or
- (b) an application for a revision is received by the Secretary of State or the Board or an officer of the Board at the appropriate office—
  - (i) subject to regulation 9A(3), within one month of the date of notification of the original decision;
  - (ii) where a written statement is requested under [<sup>F93</sup>paragraph (3)(b) of regulation 3ZA or] paragraph (1)(b) of regulation 28 and is provided within the period specified in head (i), within 14 days of the expiry of that period;
  - (iii) where a written statement is requested under [<sup>F93</sup>paragraph (3)(b) of regulation 3ZA or] paragraph (1)(b) of regulation 28 and is provided after the period specified in head (i), within 14 days of the date on which the statement is provided; or
  - (iv) within such longer period as may be allowed under regulation 4.]

(2) Where the Secretary of State [<sup>F90</sup>or the Board or an officer of the Board] requires further evidence or information from the applicant in order to consider all the issues raised by an application under paragraph (1)(b) (“the original application”), he [<sup>F94</sup>or they] shall notify the applicant that further evidence or information is required and the decision may be revised—

- (a) where the applicant provides further relevant evidence or information within one month of the date of notification or such longer period of time as the Secretary of State [<sup>F90</sup>or the Board or an officer of the Board] may allow; or
- (b) where the applicant does not provide such evidence or information within the time allowed under sub-paragraph (a), on the basis of the original application.

(3) In the case of a payment out of the social fund in respect of maternity or funeral expenses, a decision under section 8 may be revised where the application is made—

- (a) within one month of the date of notification of the decision, or if later
- (b) within the time prescribed for claiming such a payment under regulation 19 of, and Schedule 4 to, the Claims and Payments Regulations <sup>M12</sup>, or
- (c) within such longer period of time as may be allowed under regulation 4.

(4) In the case of a decision made under the Pension Schemes Act 1993 <sup>M13</sup> by virtue of section 170(2) of that Act, the decision may be revised at any time by [<sup>F95</sup>an officer of the Board] where it contains an error.

<sup>F96</sup>(4A) Where there is an appeal against an original decision (within the meaning of paragraph (1)) within the time prescribed [<sup>F97</sup>by Tribunal Procedure Rules] but the appeal has not been determined, the original decision may be revised at any time.]

(5) A decision of the [<sup>F98</sup>Secretary of State [<sup>F98</sup>Board or an officer of the Board]] under section 8 or 10—

- (a) [<sup>F99</sup>except where paragraph (5ZA) applies] which arose from an official error; or
- (b) [<sup>F100</sup>which was made in ignorance of, or was based on a mistake as to, some material fact,]

[<sup>F102</sup>(c) [<sup>F103</sup>subject to sub-paragraph (d),] where the decision is a disability benefit decision, or is an incapacity benefit decision where there has been an incapacity determination [<sup>F104</sup>or is an employment and support allowance decision where there has been a limited capability for work determination] (whether before or after the decision), which was made in ignorance or, or was based upon a mistake as to, some material fact in relation to a disability determination embodied in or necessary to the disability benefit decision [<sup>F105</sup>, the incapacity determination or the limited capability for work determination], and

- (i) as a result of that ignorance of or mistake as to that fact the decision was more advantageous to the claimant than it would otherwise have been but for that ignorance or mistake and,
- (ii) the Secretary of State is satisfied that at the time the decision was made the claimant or payee knew or could reasonably have been expected at the time the decision was made to know of the fact in question and that it was relevant to the decision,]

[<sup>F106</sup>(d) where the decision [<sup>F107</sup>is an employment and support allowance decision,] is a disability benefit decision, or is an incapacity benefit decision, which was made in ignorance of, or was based upon a mistake as to, some material fact not in relation to the [<sup>F108</sup>limited capability for work determination,] incapacity or disability determination embodied in or necessary to [<sup>F109</sup>the employment and support allowance decision,] the incapacity benefit decision or disability benefit decision, and as a result of that ignorance of, or mistake as to that fact, the decision was more advantageous to the claimant than it would otherwise have been but for the ignorance or mistake,]

may be revised [<sup>F110</sup>at any time by the Secretary of State. [<sup>F110</sup>by the Board or an officer of the Board at any time not later than the end of the period of six years immediately following the date of the decision or, where ignorance of the material fact referred to in sub-paragraph (b) was caused by the fraudulent or negligent conduct of the claimant, not later than the end of the period of twenty years immediately following the date of the decision.]]

[<sup>F111</sup>(5ZA) This paragraph applies where—

- (a) the decision which would otherwise fall to be revised is a decision to award a benefit specified in paragraph (5ZB), whether or not the award has already been put in payment;
- (b) that award was based on the satisfaction by a person of the contribution conditions, in whole or in part, by virtue of credits of earnings for incapacity for work or approved training in the tax years from 1993-94 to 2007-08;
- (c) the official error derives from the failure to transpose correctly information relating to those credits from the Department for Work and Pensions' Pension Strategy Computer System to Her Majesty's Revenue and Customs' computer system ( NIRS2 ) or from related clerical procedures; and
- (d) that error has resulted in an award to the claimant which is more advantageous to him than if the error had not been made.

(5ZB) The specified benefits are—

- (a) bereavement allowance;
- [ bereavement support payment under section 30 of the Pensions Act 2014;]

<sup>F112</sup>(aa)

- (b) contribution-based jobseeker's allowance;
- (c) incapacity benefit;
- (d) retirement pension;
- (e) widowed mother's allowance;
- (f) widowed parent's allowance; <sup>F113</sup> ...
- (g) widow's pension; [<sup>F114</sup>and
- (h) contributory employment and support allowance.]

(5ZC) In paragraph (5ZA)(b), "tax year" has the meaning ascribed to it by section 122(1) of the Contributions and Benefits Act.]

[<sup>F115</sup>(5A) Where—

- (a) the Secretary of State or the Board or an officer of the Board, as the case may be, makes a decision under section 8 or 10, or that decision is revised under section 9, in respect of a claim or award ("decision A") and the claimant appeals against decision A;
- (b) decision A is superseded or the claimant makes a further claim which is decided ("decision B") after the claimant made the appeal but before the appeal results in a decision by [<sup>F116</sup>the First-tier Tribunal] ("decision C"); and
- (c) the Secretary of State or the Board or an officer of the Board, as the case may be, would have made decision B differently if he or they had been aware of decision C at the time he or they made decision B,

decision B may be revised at any time.]

[<sup>F117</sup>(5B) A decision by the Secretary of State under section 8 or 10 awarding incapacity benefit may be revised at any time if—

- (a) it incorporates a determination that the condition in regulation 28(2)(b) of the Social Security (Incapacity for Work) (General) Regulations 1995 (conditions for treating a person as incapable of work until the personal capability assessment is carried out) is satisfied;
- (b) the condition referred to in sub-paragraph (a) was not satisfied at the time when the further claim was first determined; and
- (c) there is a period before the award which falls to be decided.]

[<sup>F118</sup>(5C) A decision of the Secretary of State under section 10 made in consequence of a failure determination may be revised at any time if it contained an error to which the claimant did not materially contribute;]

(5D) [<sup>F119</sup>A decision by the Secretary of State under section 8 or 10 awarding an employment and support allowance may be revised at any time if—

- (a) it incorporates a determination that the conditions in regulation 30 of the Employment and Support Allowance Regulations are satisfied;
- (b) the condition referred to in sub-paragraph (a) was not satisfied at the time when the claim was made; and
- (c) there is a period before the award which falls to be decided.]

[<sup>F120</sup>(5E) A decision under section 8 or 10 awarding an employment and support allowance may be revised if—

- (a) the decision of the Secretary of State awarding an employment and support allowance was made on the basis that the claimant had made and was pursuing an appeal against

a decision of the Secretary of State that the claimant did not have limited capability for work (“the original decision”); and

(b) the appeal to the First-tier Tribunal in relation to the original decision is successful.

(5F) A decision under section 8 or 10 awarding an employment and support allowance may be revised if—

(a) the person’s current period of limited capability for work is treated as a continuation of another such period under regulation 145(1) <sup>F121</sup> ... of the Employment and Support Allowance Regulations; and

(b) regulation 7(1)(b) of those Regulations applies.]

[<sup>F122</sup>(5G) Where—

(a) a person’s entitlement to an employment and support allowance is terminated because of a decision which embodies a determination that the person does not have limited capability for work;

(b) the person appeals that decision to the First-tier Tribunal;

(c) before or after that decision is appealed by the person, that person claims and there is a decision to award—

(i) income support, or

(ii) jobseeker’s allowance; and

(d) the decision referred to in sub-paragraph (a) is successfully appealed,

the decision to award income support or jobseeker’s allowance may be revised.

(5H) Where—

(a) a conversion decision within the meaning of regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010 (deciding whether an existing award qualifies for conversion) is made in respect of a person;

(b) the person appeals that decision to the First-tier Tribunal;

(c) before or after that decision is appealed by the person, that person claims and there is a decision to award—

(i) income support, or

(ii) jobseeker’s allowance; and

(d) the decision referred to in sub-paragraph (a) is successfully appealed,

the decision to award income support or jobseeker’s allowance may be revised.]

[<sup>F123</sup>(5I) Where—

(a) a decision to terminate a person’s entitlement to a contributory employment and support allowance is made because of section 1A of the Welfare Reform Act (duration of contributory allowance); and

(b) it is subsequently determined, in relation to the period of entitlement before that decision, that the person had or is treated as having had limited capability for work-related activity,

the decision to terminate that entitlement may be revised.]

[<sup>F124</sup>(5J) A decision by the Secretary of State under section 8 awarding an employment and support allowance may be revised at any time where—

(a) it is made immediately following the last day of a period for which the claimant was treated as capable of work or as not having limited capability for work under regulation 55ZA of



the Jobseeker's Allowance Regulations or regulation 46A of the Jobseeker's Allowance Regulations 2013 (extended period of sickness) and that period lasted 13 weeks; and

- (b) it is not a decision which embodies a determination that the claimant is treated as having limited capability for work under regulation 30 of the Employment and Support Allowance Regulations (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made).]

[<sup>F125</sup>(6) A decision of the Secretary of State under section 8 or 10 that a jobseeker's allowance is reduced in accordance with section 19 or 19A of the Jobseeker's Act or regulation 69B of the Jobseeker's Allowance Regulations may be revised at anytime by the Secretary of State.]

[<sup>F126</sup>(6A) A relevant decision within the meaning of section 2B(2) [<sup>F127</sup>or (2A)] of the Administration Act may be revised at any time if it contains an error.]

[<sup>F128</sup>(6B) A decision of the Secretary of State under section 8 or 10 awarding a jobseeker's allowance may be revised where the Secretary of State makes a decision under regulation 69B (the period of a reduction under section 19B: claimants ceasing to be available for employment etc. ) of the Jobseeker's Allowance Regulations ("the JSA Regulations ") that the amount of the award is to be reduced in accordance with regulations 69B and 70 of the JSA Regulations.]

[<sup>F129</sup>(7) Where—

- (a) the Secretary of State or an officer of the Board makes a decision under section 8 or 10 awarding a relevant benefit to a claimant ("the original award"); and
- (b) an award of another relevant benefit [<sup>F130</sup>or [<sup>F131</sup>Scottish disability benefit]] or of an increase in the rate of another relevant benefit [<sup>F130</sup>or [<sup>F131</sup>Scottish disability benefit]] is made to the claimant or a member of his family for a period which includes the date on which the original award took effect,

the Secretary of State or an officer of the Board, as the case may require, may revise the original award.]

[<sup>F132</sup>(7ZA) Where—

- (a) the Secretary of State makes a decision under section 8 or 10 awarding income support[<sup>F133</sup>, [<sup>F134</sup>income-based jobseeker's allowance,] state pension credit or an income-related employment and support allowance] to a claimant ("the original award");
- (b) the claimant has a non-dependant within the meaning of regulation 3 of the Income Support Regulations[<sup>F135</sup>, regulation 2 of the Jobseeker's Allowance Regulations][<sup>F136</sup>or regulation 71 of the Employment and Support Allowance Regulations] or a person residing with him within the meaning of paragraph 1(1)(a)(ii), (b)(ii) or (c)(iii) of Schedule I to the State Pension Credit Regulations ("the non-dependant");
- (c) but for the non-dependant—
  - (i) a severe disability premium would be applicable to the claimant under regulation 17(1)(d) of the Income Support Regulations[<sup>F137</sup>, regulation 83(e) or 86A(c) of the Jobseeker's Allowance Regulations][<sup>F138</sup>or regulation 67 of the Employment and Support Allowance Regulations]; or
  - (ii) an additional amount would be applicable to the claimant as a severe disabled person under regulation 6(4) of the State Pension Credit Regulations; and
- (d) after the original award the non-dependant is awarded benefit which—
  - (i) is for a period which includes the date on which the original award took effect; and
  - (ii) is such that a severe disability premium becomes applicable to the claimant under paragraph 13(3)(a) of Schedule 2 to the Income Support Regulations[<sup>F139</sup>, paragraph

15(4)(a) or 20I(3)(a) of Schedule 1 to the Jobseeker's Allowance Regulations]<sup>F140</sup>, paragraph 6(4)(a) of Schedule 4 to the Employment and Support Allowance Regulations] or an additional amount for severe disability becomes applicable to him under paragraph 2(2)(a) of Schedule I to the State Pension Credit Regulations,

the Secretary of State may revise the original award.]

[<sup>F141</sup>(7A) Where a decision as to a claimant's entitlement to a disablement pension under section 103 of the Contributions and Benefits Act is revised by the Secretary of State, or changed on appeal, a decision of the Secretary of State as to the claimant's entitlement to reduced earnings allowance under paragraph 11 or 12 of Schedule 7 to that Act may be revised at any time provided that the revised decision is more advantageous to the claimant than the original decision.]

[<sup>F142</sup>(7B) A decision under regulation 22A of the Income Support Regulations (reduction in applicable amount where the claimant is appealing against a decision which embodies a determination that he is not incapable of work) may be revised if the appeal is successful [<sup>F143</sup>or lapses].

(7C) Where a person's entitlement to income support is terminated because of a determination that he is not incapable of work and [<sup>F144</sup>the decision which embodies that determination is revised or] he subsequently appeals the decision [<sup>F145</sup>which embodies] that determination and is entitled to income support under regulation 22A of the Income Support Regulations, the decision to terminate entitlement may be revised.]

[<sup>F146</sup>(7CC) Where—

- (a) a person's entitlement to income support is terminated because of a determination that the person is not incapable of work;
- (b) the person subsequently claims and is awarded jobseeker's allowance; and
- (c) the decision which embodies the determination that the person is not incapable of work is revised or successfully appealed,

the Secretary of State may revise the decisions to terminate income support entitlement and to award jobseeker's allowance.]

[<sup>F147</sup>(7CD) A decision of the Secretary of State under section 10 of the Act made in consequence of a determination under regulation 6(2) of the Income Support Work-Related Activity Regulations that a claimant has<sup>F148</sup>, without showing good cause,] failed to satisfy a requirement of regulation 2 of those Regulations (requirement to undertake work-related activity) may be revised at any time if it contained an error to which the claimant did not materially contribute.]

[<sup>F149</sup>(7D) Where—

- (a) a person elects for an increase of—
  - (i) a Category A or Category B retirement pension in accordance with paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act (pension increase or lump sum where entitlement to retirement pension is deferred);
  - (ii) a shared additional pension in accordance with paragraph 1 of Schedule 5A to that Act (pension increase or lump sum where entitlement to shared additional pension is deferred); or, as the case may be,
  - (iii) graduated retirement benefit in accordance with paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations (further provisions replacing section 36(4) of the National Insurance Act 1965: increases of graduated retirement benefit and lump sums);

- (b) the Secretary of State decides that the person or his partner is entitled to state pension credit and takes into account the increase of pension or benefit in making or superseding that decision; and
- (c) the person's election for an increase is subsequently changed in favour of a lump sum in accordance with regulation 5 of the Deferral of Retirement Pensions etc. Regulations or, as the case may be, paragraph 20D of Schedule 1 to the Graduated Retirement Benefit Regulations,

the Secretary of State may revise the state pension credit decision.

<sup>I</sup>  
F150(7DA) The Secretary of State may revise the state pension credit decision where—

- (a) a person chooses under—
  - (i) section 8(2) of the Pensions Act 2014 (choice of lump sum or survivor's pension under section 9 in certain cases) to be paid a state pension under section 9 of that Act (survivor's pension based on inheritance of deferred old state pension); or
  - (ii) Regulations made under section 10 of the Pensions Act 2014 (inheritance of graduated retirement benefit) which make provision corresponding or similar to section 8(2) to be paid a state pension under Regulations made under section 10 which make provision corresponding or similar to section 9 of that Act;
- (b) the Secretary of State—
  - (i) decides that the person or their partner is entitled to state pension credit; and
  - (ii) takes into account the state pension mentioned in sub-paragraph (a) in making or superseding that decision; and
- (c) the person's choice for a state pension mentioned in sub-paragraph (a) is subsequently altered in favour of a lump sum in accordance with—
  - (i) regulation 6 of the State Pension Regulations 2015 (changing a choice of lump sum or survivor's pension); or
  - (ii) Regulations made under section 10 of the Pensions Act 2014 which make provision corresponding or similar to regulation 6 of the State Pension Regulations 2015.

(7DB) The Secretary of State may revise an award of a state pension under Part 1 of the Pensions Act 2014 where—

- (a) the person makes a choice under—
  - (i) section 8(2) of the Pensions Act 2014; or
  - (ii) Regulations under section 10 of that Act which make provision corresponding or similar to section 8(2); and
- (b) the person subsequently alters their choice in accordance with—
  - (i) regulation 6 of the State Pension Regulations 2015; or
  - (ii) Regulations under section 10 of the Pensions Act 2014 which make provision corresponding or similar to regulation 6 of the State Pension Regulations 2015.]

(7E) Where—

- (a) a person is awarded a Category A or Category B retirement pension, shared additional pension or, as the case may be, graduated retirement benefit;
- (b) an election is made, or treated as made, in respect of the award in accordance with paragraph A1 or 3C of Schedule 5 or paragraph 1 of Schedule 5A to the Contributions and Benefits Act or, as the case may be, in accordance with paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations; and

(c) the election is subsequently changed in accordance with regulation 5 of the Deferral of Retirement Pensions etc. Regulations or, as the case may be, paragraph 20D of Schedule 1 to the Graduated Retirement Benefit Regulations,  
the Secretary of State may revise the award.]

[<sup>F151</sup>(7EA) The Secretary of State may revise a decision made under regulation 18(1) that a person ceases to be entitled to a benefit specified in paragraph (7EB).

(7EB) Those benefits are—

- (a) a Category A or Category B retirement pension;
- (b) a shared additional pension;
- (c) graduated retirement benefit.]

[<sup>F152</sup>(d) a state pension under Part 1 of the Pensions Act 2014.]

[<sup>F153</sup>(7F) A decision under regulation 17(1)(d) of the Income Support Regulations that a person is no longer entitled to a disability premium because of a determination that he is not incapable of work may be revised where the decision which embodies that determination is revised or his appeal against the decision is successful.]

(8) A decision of the Secretary of State [<sup>F154</sup>or the Board or an officer of the Board] which is specified in Schedule 2 to the Act or is prescribed in regulation 27 (decisions against which no appeal lies) may be revised at any time.

[<sup>F155</sup>(8A) ] <sup>F156</sup>.....

[<sup>F157</sup>(8B) Where—

- (a) a restriction is imposed on a person under section 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions) as result of the person—
  - (i) being convicted of an offence by a court; or
  - (ii) agreeing to pay a penalty as an alternative to prosecution under section 115A of the Administration Act or section 109A of the Social Security Administration (Northern Ireland) Act 1992, and
- (b) that conviction is quashed or set aside by that or any other court, or the person withdraws his agreement to pay a penalty,

a decision of the Secretary of State made under section 8(1)(a) or made under section 10 in accordance with regulation 6(2)(j) or (k) may be revised at any time.]

[<sup>F158</sup>(8C) A decision made under section 8 or 10 (“the original decision”) may be revised at any time—

- (a) where, on or after the date of the original decision—
  - (i) a late paid contribution is treated as paid under regulation 5 of the Social Security (Crediting and Treatment of Contributions and National Insurance Numbers) Regulations 2001 (treatment of late paid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made;
  - (ii) a direction is given under regulation 6 of those Regulations (treatment of contributions paid late through ignorance or error) that a late contribution shall be treated as paid on a date which falls on or before the date on which the original decision was made; or
  - (iii) an unpaid contribution is treated as paid under regulation 60 of the Social Security (Contributions) Regulations 2001 (treatment of unpaid contributions where no

consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made; and

- (b) where any of paragraphs (i), (ii) or (iii) apply, either an award of benefit would have been made or the amount of benefit awarded would have been different.]

[<sup>F159</sup>(8D) A decision made under section 8 or 10 may be revised at any time where, by virtue of regulation 6C (treatment of Class 3 contributions paid under section 13A of the Act) of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001, a contribution is treated as paid on a date which falls on or before the date on which the decision was made.]

[<sup>F160</sup>(8E) A decision in relation to a claim for a contribution-based jobseeker’s allowance or a contributory employment and support allowance may be revised at any time where—

- (a) on or after the date of the decision a contribution is treated as paid as set out in regulation 7A of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 (treatment of Class 2 contributions paid on or before the due date); and
- (b) by virtue of the contribution being so treated, the person satisfies the contribution conditions of entitlement listed in column 2 of the table in paragraph (8G) in relation to a contribution-based jobseeker’s allowance or a contributory employment and support allowance.

(8F) A decision to award a benefit listed in column 1 of the table in paragraph (8G) may be revised at any time where, on or after the date of the decision—

- (a) any of the circumstances set out in paragraph (8H) occur; and
- (b) by virtue of the circumstance occurring, the person ceases to satisfy the contribution conditions of entitlement listed in the corresponding entry in column 2 of that table.

(8G) The table referred to in paragraphs (8E) and (8F) is as follows—

1. Benefit	2. Contribution conditions of entitlement
Contribution-based jobseeker’s allowance	the conditions set out in section 2(1)(a) and (b) of the Jobseekers Act
Contributory employment and support allowance	the first and second conditions set out in paragraphs 1(1) and 2(1) of Schedule 1 to the Welfare Reform Act
[ <sup>F161</sup> Bereavement support payment under section 30 of the Pensions Act 2014]	[ <sup>F162</sup> the contribution conditions set out in section 31 of the Pensions Act 2014 (bereavement support payment: contribution condition and amendments)]
Widowed parent’s allowance	the contribution conditions set out in paragraph 5(2) and (3) of Schedule 3 to the Contributions and Benefits Act
<sup>F163</sup>	<sup>F163</sup>
...	...

Category A or Category B retirement pension under Part II of the Contributions and Benefits Act	the contribution conditions set out in paragraph 5(2) and (3) or, as the case may be, 5A(2) of Schedule 3 to the Contributions and Benefits Act
State pension under Part 1 of the Pensions Act 2014	the conditions of entitlement to a state pension in section 2(1)(b) or, as the case may be, 2(2)(b) or 4(1)(b) and (c) of the Pensions Act 2014

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(8H) The circumstances are—

- (a) a Class 2 contribution is repaid to a person in consequence of an amendment or correction of the person's relevant profits under section 9ZA or 9ZB of the Taxes Management Act 1970 (amendment or correction of return by taxpayer or officer of the Board); or
- (b) a Class 2 contribution is returned to a person under regulation 52 of the Social Security (Contributions) Regulations 2001 (contributions paid in error); or
- (c) a Class 1 or Class 2 contribution paid by a person to Her Majesty's Revenue and Customs under section 223 of the Finance Act 2014 (accelerated payment in respect of notice given while tax enquiry is in progress) is repaid to the person.

(8I) A decision to award a benefit specified in paragraph (8K) may be revised at any time where, on or after the date of the decision—

- (a) any of the circumstances set out in paragraph (8H) occur; and
- (b) by virtue of the circumstances occurring, the decision was more advantageous to the claimant than it would otherwise have been.

(8J) A decision to award a benefit specified in paragraph (8K), or a decision that that benefit is not payable, may be revised at any time where, on or after the date of the decision, a contribution is treated as paid by the relevant day by virtue of regulation 7(1) of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 (treatment for the purpose of any contributory benefit of contributions paid under certain provisions relating to the payment and collection of contributions).

(8K) The benefits specified in this paragraph are—

- (a) a bereavement benefit;
- (b) a Category A or Category B retirement pension under Part II of the Contributions and Benefits Act;
- (c) a state pension under Part 1 of the Pensions Act 2014.]

[<sup>F164</sup>(8L) A decision made under section 8 or 10 in relation to maternity allowance may be revised at any time where, by virtue of regulation 7(1) of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 (treatment for the purpose of any contributory benefit of contributions paid under certain provisions relating to the payment and collection of contributions), a contribution is treated as paid on a date which falls on or before the date on which the decision was made.]

[<sup>F165</sup>(9) Paragraph (1) shall not apply in respect of—

- (a) a relevant change of circumstances which occurred since the decision [<sup>F166</sup>had effect][<sup>F167</sup>or, in the case of an advance award under regulation 13, 13A or 13C of the Claims and Payments Regulations, since the decision was made,] or where the Secretary of

State has evidence or information which indicates that a relevant change of circumstances will occur; <sup>F168</sup> ...

- (b) a decision which relates to an attendance allowance or a disability living allowance where the person is terminally ill, within the meaning of section 66(2)(a) of the Contributions and Benefit Act, unless an application for revision which contains an express statement that the person is terminally ill is made either by—

- (i) the person himself; or  
(ii) any other person purporting to act on his behalf whether or not that other person is acting with his knowledge or authority,

but where such an application is received a decision may be so revised notwithstanding that no claim under section 66(1) or, as the case may be, 72(5) or 73(12) of that Act has been made;]<sup>F169</sup>nor

- (c) a decision which relates to an employment and support allowance where the claimant is terminally ill, within the meaning of regulation 2(1) of the Employment and Support Allowance Regulations unless the claimant makes an application which contains an express statement that he is terminally ill and where such an application is made, the decision may be revised.]

(10) The Secretary of State [<sup>F170</sup>or the Board] may treat an application for a supersession as an application for a revision.

(11) In this regulation and regulation 7, “appropriate office” means

- (a) the office of the [<sup>F171</sup>Department for Work and Pensions] the address of which is indicated on the notification of the original decision; or  
(b) in the case of a person who has claimed jobseeker’s allowance, the office specified by the Secretary of State in accordance with regulation 23 of the Jobseeker’s Allowance Regulations]<sup>F172</sup>; or  
(c) in the case of a contributions decision which falls within Part II of Schedule 3 to the Act , any National Insurance Contributions office of the Board or any office of the [<sup>F173</sup>Department for Work and Pensions ] ; or  
(d) in the case of a decision made under the Pension Schemes Act 1993 by virtue of section 170(2) of that Act, any National Insurance Contributions office of the Board]<sup>F174</sup>; or  
(e) in the case of a person who has claimed working families' tax credit or disabled person’s tax credit, a Tax Credits Office, the address of which is indicated on the notification of the original decision]; [<sup>F175</sup>or]

<sup>F176</sup>(f) in the case of a person who is, or would be, required to take part in a work-focused interview, an office of the Department for Work and Pensions which is designated by the Secretary of State as a Jobcentre Plus Office or an office of a designated authority which displays the ONE logo.]

<sup>F177</sup>(12) In this regulation—

“relevant day” has the meaning given in regulation 7(3)(b) of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001;

“relevant profits” has the meaning given in section 11(3) of the Contributions and Benefits Act;]

### Textual Amendments

- F90** Words in reg. 3(1)(2) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **6(2)**
- F91** Words in reg. 3(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **6(3)**
- F92** Reg. 3(1)(a)(b) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **3(a)**
- F93** Words in reg. 3(1)(b) inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(2)**
- F94** Words in reg. 3(1)(2) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **6(3)**
- F95** Words in reg. 3(4) substituted (5.7.1999) by [The Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(Commencement No. 2 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1662\)](#), art. 1, **3(3)(a)**
- F96** Reg. 3(4A) inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **3(b)**
- F97** Words in reg. 3(4A) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 98(a)**
- F98** Words in reg. 3(5) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **6(4)(a)**
- F99** Words in reg. 3(5)(a) inserted (1.10.2007) by [The Social Security \(National Insurance Credits\) Amendment Regulations 2007 \(S.I. 2007/2582\)](#), regs. 1, **3(2)**
- F100** Reg. 3(5)(b) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **6(4)(b)**
- F101** Words in reg. 3(5)(b) substituted (24.9.2007) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2007 \(S.I. 2007/2470\)](#), regs. 1, **3(2)**
- F102** Reg. 3(5)(c) inserted (5.7.1999) by [The Social Security and Child Support \(Decisions and Appeals\) Amendment \(No. 2\) Regulations 1999 \(S.I. 1999/1623\)](#), regs. 1(1), **2(b)**
- F103** Words in reg. 3(5)(c) inserted (24.9.2007) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2007 \(S.I. 2007/2470\)](#), regs. 1, **3(3)**
- F104** Words in reg. 3(5)(c) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **31(2)(a)(i)**
- F105** Words in reg. 3(5)(c) substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **31(2)(a)(ii)**
- F106** Reg. 3(5)(d) added (24.9.2007) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2007 \(S.I. 2007/2470\)](#), regs. 1, **3(4)**
- F107** Words in reg. 3(5)(d) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **31(2)(b)(i)**
- F108** Words in reg. 3(5)(d) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **31(2)(b)(ii)**
- F109** Words in reg. 3(5)(d) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **31(2)(b)(iii)**
- F110** Words in reg. 3(5) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **6(4)(c)**
- F111** Words in reg. 3(5ZA)-(5ZC) inserted (1.10.2007) by [The Social Security \(National Insurance Credits\) Amendment Regulations 2007 \(S.I. 2007/2582\)](#), regs. 1, **3(3)**
- F112** Reg. 3(5ZB)(aa) inserted (6.4.2017 coming into force in accordance with art. 1-3) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2017 \(S.I. 2017/422\)](#), arts. 1(2), **15(3)(a)**



- F113** Word in reg. 3(5ZB)(f) omitted (27.7.2008) by virtue of Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **31(3)(a)**
- F114** Reg. 3(5ZB)(h) and word added (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **31(3)(b)**
- F115** Reg. 3(5A) inserted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **3(c)**
- F116** Words in reg. 3(5A)(b) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 98(b)**
- F117** Reg. 3(5B) inserted (24.9.2007) by Social Security (Miscellaneous Amendments) (No.4) Regulations 2007 (S.I. 2007/2470), regs. 1, **3(5)**
- F118** Reg. 3(5C)(5D) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **31(4)**
- F119** Reg. 3(5D) inserted (31.10.2011) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011 (S.I. 2011/2425), regs. 1(2), **12(a)**
- F120** Reg. 3(5E)-(5F) inserted (28.6.2010) by Social Security (Miscellaneous Amendments) (No.3) Regulations 2010 (S.I. 2010/840), regs. 1, **7(2)**
- F121** Words in reg. 3(5F)(a) omitted (1.5.2012) by virtue of The Employment and Support Allowance (Amendment of Linking Rules) Regulations 2012 (S.I. 2012/919), regs. 1(2), **2**
- F122** Reg. 3(5G)(5H) inserted (31.10.2011) by The Social Security (Miscellaneous Amendments) (No. 3) Regulations 2011 (S.I. 2011/2425), regs. 1(2), **12(b)**
- F123** Reg. 3(5I) inserted (1.5.2012) by The Employment and Support Allowance (Duration of Contributory Allowance) (Consequential Amendments) Regulations 2012 (S.I. 2012/913), regs. 1(2), **5**
- F124** Reg. 3(5J) inserted (30.3.2015) (E+W+S) by The Jobseeker s Allowance (Extended Period of Sickness) Amendment Regulations 2015 (S.I. 2015/339), regs. 1, **7(2)**
- F125** Reg. 3(6) substituted (22.10.2012) by The Jobseekers Allowance (Sanctions) (Amendment) Regulations 2012 (S.I. 2012/2568), regs. 1(1), **6(2)**
- F126** Reg. 3(6A) inserted (3.4.2000) by The Social Security (Work-focused Interviews) Regulations 2000 (S.I. 2000/897), reg. 1, **Sch. 6 para. 3(a)** (with reg. 2(5))
- F127** Words in reg. 3(6A) inserted (12.4.2004) by The Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003 (S.I. 2003/1886), regs. 1, **15(3)**
- F128** Reg. 3(6B) inserted (5.11.2012) by The Social Security (Miscellaneous Amendments) (No. 2) Regulations 2012 (S.I. 2012/2575), regs. 1(2), **4(2)**
- F129** Reg. 3(7) substituted (2.4.2002) by Social Security (Claims and Payments and Miscellaneous Amendments) Regulations 2002 (S.I. 2002/428), regs. 1(1), **4(2)**
- F130** Words in reg. 3(7)(b) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), arts. 1(2), **6(3)**
- F131** Words in reg. 3(7)(b) substituted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **6(3)**
- F132** Reg. 3(7ZA) inserted (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **2(2)(a)**
- F133** Words in reg. 3(7ZA)(a) substituted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **31(5)(a)**
- F134** Words in reg. 3(7ZA)(a) inserted (13.7.2009) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2009 (S.I. 2009/1490), regs. 1, **3(2)(b)(i)**
- F135** Words in reg. 3(7ZA)(b) inserted (13.7.2009) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2009 (S.I. 2009/1490), regs. 1, **3(2)(b)(ii)**
- F136** Words in reg. 3(7ZA)(b) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **31(5)(b)**
- F137** Words in reg. 3(7ZA)(c)(i) inserted (13.7.2009) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2009 (S.I. 2009/1490), regs. 1, **3(2)(b)(iii)**
- F138** Words in reg. 3(7ZA)(c)(i) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **31(5)(c)**

- F139** Words in reg. 3(7ZA)(d)(ii) inserted (13.7.2009) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2009 (S.I. 2009/1490), regs. 1, **3(2)(b)(iv)**
- F140** Words in reg. 3(7ZA)(d)(ii) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **31(5)(d)**
- F141** Reg. 3(7A) inserted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **3(d)**
- F142** Reg. 3(7B)(7C) inserted (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337) , regs. 1, **2(2)(b)**
- F143** Words in reg. 3(7B) added (10.4.2006) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2006 (S.I. 2006/832), regs. 1(2), **5(2)(a)**
- F144** Words in reg. 3(7C) inserted (10.4.2006) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2006 (S.I. 2006/832), regs. 1(2), **5(2)(b)(i)**
- F145** Words in reg. 3(7C) substituted (10.4.2006) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2006 (S.I. 2006/832), regs. 1(2), **5(2)(b)(ii)**
- F146** Reg. 3(7CC) inserted (13.7.2009) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2009 (S.I. 2009/1490), regs. 1, **3(2)(c)**
- F147** Reg. 3(7CD) inserted (28.4.2014) by The Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014 (S.I. 2014/1097), regs. 1(1), **12(3)**
- F148** Words in reg. 3(7CD) inserted (16.11.2017) by The Social Security (Miscellaneous Amendments No. 4) Regulations 2017 (S.I. 2017/1015), regs. 1(2), **9**
- F149** Reg. 3(7D)(7E) inserted (6.4.2006) by Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 (S.I. 2005/2677), regs. 1(1), **9(3)**
- F150** Reg. 3(7DA)(7DB) inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **18(3)**
- F151** Reg. 3(7EA)(7EB) inserted (17.4.2012) by The Social Security (Suspension of Payment of Benefits and Miscellaneous Amendments) Regulations 2012 (S.I. 2012/824), regs. 1, **4(2)**
- F152** Reg. 3(7EB)(d) inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **18(4)**
- F153** Reg. 3(7F) inserted (10.4.2006) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2006 (S.I. 2006/832), regs. 1(2), **5(2)(c)**
- F154** Words in reg. 3(7)-(9) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **6(2)**
- F155** Reg. 3(8A) inserted (15.10.2001) by The Social Security (Breach of Community Order) (Consequential Amendments) Regulations 2001 (S.I. 2001/1711), regs. 1, **2(2)(b)**
- F156** Reg. 3(8A) omitted (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of Welfare Reform Act 2009 (Section 26) (Consequential Amendments) Regulations 2010 (S.I. 2010/424), **reg. 4(3)**
- F157** Reg. 3(8B) substituted (1.4.2010) by The Social Security (Loss of Benefit) Amendment Regulations 2010 (S.I. 2010/1160), regs. 1, **3(2)**
- F158** Reg. 3(8C) inserted (30.10.2008) by Social Security (Miscellaneous Amendments) (No.5) Regulations 2008 (S.I. 2008/2667), regs. 1, **3(2)**
- F159** Reg. 3(8D) inserted (6.4.2009) by Social Security (Additional Class 3 National Insurance Contributions) Amendment Regulations 2009 (S.I. 2009/659), regs. 1, **2(2)**
- F160** Reg. 3(8E)-(8K) inserted (1.1.2017) (E+W+S) by The Social Security (Credits, and Crediting and Treatment of Contributions) (Consequential and Miscellaneous Amendments) Regulations 2016 (S.I. 2016/1145), regs. 1, **4(3)(a)**
- F161** Words in reg. 3(8G) substituted (6.4.2017 coming into force in accordance with art. 1-3) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (S.I. 2017/422), arts. 1(2), **15(3)(b)(i)**

- F162** Words in reg. 3(8G) substituted (6.4.2017 coming into force in accordance with art. 1-3) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (S.I. 2017/422), arts. 1(2), **15(3)(b)(ii)**
- F163** Words in reg. 3(8G) omitted (6.4.2017 coming into force in accordance with art. 1-3) by virtue of The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (S.I. 2017/422), arts. 1(2), **15(3)(b)(iii)**
- F164** Reg. 3(8L) inserted (with effect from 6.4.2022) by The Social Security (Class 2 National Insurance Contributions Increase of Threshold) Regulations 2022 (S.I. 2022/1329), regs. 1, **8(1)**
- F165** Reg. 3(9) substituted (18.10.1999) by The Social Security and Child Support (Decisions and Appeals), Vaccine Damage Payments and Jobseeker's Allowance (Amendment) Regulations 1999 (S.I. 1999/2677), regs. 1, **6(1)(b)**
- F166** Words in reg. 3(9)(a) substituted (5.5.2003) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1050), regs. 1(1)(a), **3(2)** (with reg. 6)
- F167** Words in reg. 3(9)(a) inserted (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **2(2)(c)**
- F168** Word in reg. 3(9)(a) omitted (27.7.2008) by virtue of Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **31(6)(a)**
- F169** Reg. 3(9)(c) and word inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **31(6)(b)**
- F170** Words in reg. 3(10) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **6(5)**
- F171** Words in reg. 3(11)(a) substituted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **3(e)(i)**
- F172** Reg. 3(11)(c)(d) inserted (5.7.1999) by The Social Security Contributions (Transfer of Functions, etc.) Act 1999 (Commencement No. 2 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1662), art. 1, **3(3)(b)**
- F173** Words in reg. 3(11)(c) substituted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **3(e)(ii)**
- F174** Reg. 3(11)(e) and word added (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **6(6)**
- F175** Reg. 3(11)(f) and word added (3.4.2000) by The Social Security (Work-focused Interviews) Regulations 2000 (S.I. 2000/897), reg. 1, **Sch. 6 para. 3(b)** (with reg. 2(5))
- F176** Reg. 3(11)(f) substituted (30.9.2002) by Social Security (Jobcentre Plus Interviews) Regulations 2002 (S.I. 2002/1703), reg. 1, **Sch. 2 para. 6(b)**
- F177** Reg. 3(12) inserted (1.1.2017) (E+W+S) by The Social Security (Credits, and Crediting and Treatment of Contributions) (Consequential and Miscellaneous Amendments) Regulations 2016 (S.I. 2016/1145), regs. 1, **4(3)(b)**

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### Marginal Citations

- M12** See in particular paragraphs 8 and 9 of Schedule 4 to the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968).
- M13** 1993 c.48; section 170 was substituted by paragraph 131 of Schedule 7 to the Social Security Act 1998.

### [<sup>F178</sup> Consideration of revision before appeal

**3ZA.—**(1) This regulation applies in a case where—

- (a) the Secretary of State gives a person written notice of a decision under section 8 or 10 of the Act (whether as originally made or as revised under section 9 of that Act); and
- (b) that notice includes a statement to the effect that there is a right of appeal in relation to the decision only if the Secretary of State has considered an application for a revision of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under section 12(2) of the Act in relation to the decision only if the Secretary of State has considered on an application whether to revise the decision under section 9 of the Act.

(3) The notice referred to in paragraph (1) must inform the person—

- (a) of the time limit specified in regulation 3(1) or (3) for making an application for a revision; and
- (b) that, where the notice does not include a statement of the reasons for the decision (“written reasons”), he may, within one month of the date of notification of the decision, request that the Secretary of State provide him with written reasons.

(4) Where written reasons are requested under paragraph (3)(b), the Secretary of State must provide them within 14 days of receipt of the request or as soon as practicable afterwards.

(5) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a revision under section 9 of the Act. ]

#### Textual Amendments

**F178** Reg. 3ZA inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(3)**

#### [<sup>F179</sup>Revision of child support decisions

**3A.**—[<sup>F180</sup>(1) Subject to paragraph (2), any decision as defined in paragraph (3) may be revised under section 16 of the Child Support Act by the [<sup>F181</sup>Secretary of State]—

- (a) if [<sup>F182</sup>the Secretary of State] receives an application for the revision of a decision either—
  - (i) under section 16; or
  - (ii) by way of an application under section 28G,

of the Child Support Act, within one month of the date of notification of the decision or within such longer time as may be allowed under regulation 4;

- (b) if—
  - (i) [<sup>F182</sup>the Secretary of State] notifies the person who applied for a decision to be revised within the period specified in sub-paragraph (a), that the application is unsuccessful because the [<sup>F181</sup>Secretary of State] is not in possession of all of the information or evidence needed to make a decision; and
  - (ii) that person reapplies for the decision to be revised within one month of the notification described in head (i) above, or such longer period as the [<sup>F181</sup>Secretary of State] is satisfied is reasonable in the circumstances of the case, and provides in that application sufficient information or evidence to enable a decision to be made;
- (c) if [<sup>F182</sup>the Secretary of State] is satisfied that the decision was erroneous due to a misrepresentation of, or failure to disclose, a material fact and that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would have been but for that error;

[<sup>F183</sup>(cc) if an appeal is made under section 20 of the Child Support Act against a decision within the time prescribed [<sup>F184</sup>by Tribunal Procedure Rules] but the appeal has not been determined;]

- (d) if [<sup>F185</sup>the Secretary of State] commences action leading to the revision of the decision within one month of the date of notification of the decision; or

- (e) if the decision arose from an official error<sup>[F186]</sup>; or
  - (f) if the grounds for revision are that a person with respect to whom a maintenance calculation was made was not, at the time the calculation was made, a parent of a child to whom the calculation relates.]
- (2) Paragraph (1)(a) to (d) shall not apply in respect of a change of circumstances which—
- (a) occurred since the date on which the decision had effect; or
  - (b) according to information or evidence which the <sup>[F187]</sup>Secretary of State] has, is expected to occur.

<sup>[F188]</sup>(3) In paragraphs (1), (2) and (5A) and in regulation 4(3) “decision” means a decision of the <sup>[F189]</sup>Secretary of State] under section <sup>[F190]</sup>11 or 12] of the Child Support Act, or a determination of <sup>[F191]</sup>the First-tier Tribunal] on a referral under section 28D(1)(b) of that Act, or any supersession of a decision under section 17 of that Act, whether as originally made or as revised under section 16 of that Act.]

(4) A decision made under section 12(2) of the Child Support Act may be revised at any time before it is replaced by a decision under section 11 of that Act.

(5) Where the <sup>[F192]</sup>Secretary of State] revises a decision made under section 12(1) of the Child Support Act in accordance with section 16(1B) of that Act, that decision may be revised under section 16 of that Act at any time.

<sup>[F193]</sup>(5A) Where—

- (a) the <sup>[F194]</sup>Secretary of State] makes a decision (“decision A”) and there is an appeal;
- (b) there is a further decision in relation to the appellant (“decision B”) after the appeal but before the appeal results in a decision by <sup>[F195]</sup>the First-tier Tribunal] (“decision C”); and
- (c) the <sup>[F194]</sup> Secretary of State ] would have made decision B differently if <sup>F196</sup> ... aware of decision C at the time <sup>[F196]</sup>of making] decision B,

decision B may be revised at any time.]

<sup>F197</sup>(6) .....

<sup>F197</sup>(7) .....

<sup>[F198]</sup>(8) Subject to paragraph (9), section 16 of the Child Support Act shall apply in relation to any decision of the <sup>[F199]</sup>Secretary of State] not to make a maintenance calculation, as it applies in relation to any decision of the <sup>[F199]</sup>Secretary of State] under sections 11, 12 or 17 of that Act, or the determination of an appeal tribunal on a referral under section 28D(1)(b) of that Act.

(9) Paragraph (8) shall not apply to any decision not to make a maintenance calculation where the <sup>[F199]</sup>Secretary of State] makes a decision under section 12 of the Child Support Act.]]

**Textual Amendments**

**F179** Reg. 3A inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **5** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)

**F180** Reg. 3A omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**

**F181** Words in reg. 3A(1) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(3)(a)(i)**

- F182** Words in reg. 3A(1) substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(3)(a)(ii)**
- F183** Reg. 3A(1)(cc) inserted (30.4.2002 in accordance with reg. 1(2), (3) of the amending S.I.) by The Child Support (Miscellaneous Amendment) Regulations 2000 (S.I. 2000/1204), **reg. 1(2)**, (3)(b), 2(02)(a)(i)
- F184** Words in reg. 3A(1)(cc) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 99(a)**
- F185** Words in reg. 3A(1) substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(3)(a)(iii)**
- F186** Reg. 3A(1)(f) and preceding word inserted (30.4.2002 in accordance with reg. 1(2), (3) of the amending S.I.) by The Child Support (Miscellaneous Amendment) Regulations 2000 (S.I. 2000/1204), **reg. 1(2)**, (3)(b), 2(02)(a)(ii)
- F187** Words in reg. 3A(2)(b) substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(3)(b)**
- F188** Reg. 3A(3) substituted (30.4.2002 in accordance with reg. 1(2), (3) of the amending S.I.) by The Child Support (Miscellaneous Amendment) Regulations 2000 (S.I. 2000/1204), **reg. 1(2)**, (3)(b), 2(02)(b)
- F189** Words in reg. 3A(3) substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(3)(b)**
- F190** Words in reg. 3A(3) substituted (27.10.2008) by Child Support (Consequential Provisions) Regulations 2008 (S.I. 2008/2543), regs. 1, **4(3)(a)**
- F191** Words in reg. 3A(3) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 99(b)**
- F192** Words in reg. 3A(5) substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(3)(b)**
- F193** Reg. 3A(5A) inserted (30.4.2002 in accordance with reg. 1(2), (3) of the amending S.I.) by The Child Support (Miscellaneous Amendment) Regulations 2000 (S.I. 2000/1204), **reg. 1(2)**, (3)(b), 2(02)(c)
- F194** Words in reg. 3A(5A) substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(3)(c)(i)**
- F195** Words in reg. 3A(5A)(b) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 99(b)**
- F196** Words in reg. 3A(5A)(c) omitted (1.8.2012) by virtue of The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(3)(c)(ii)**
- F197** Reg. 3A(6)(7) omitted (6.4.2009) by virtue of Child Support (Miscellaneous Amendments) Regulations 2009 (S.I. 2009/396), regs. 1, **4(2)(c)** (with reg. 7)
- F198** Reg. 3A(8)(9) added (27.10.2008) by Child Support (Miscellaneous Amendments) (No.2) Regulations 2008 (S.I. 2008/2544), regs. 1(1), **3**
- F199** Words in reg. 3A(8)(9) substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(3)(d)**

**[<sup>F200</sup>Consideration of revision before appeal in relation to certain child support decisions**

**3B.—(1)** This regulation applies in a case where—

- (a) the Secretary of State gives a person written notice of a decision; and

(b) that notice includes a statement to the effect that there is a right of appeal against the decision only if the Secretary of State has considered an application for a revision of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under section 20 of the Child Support Act 1991 (as substituted by section 10 of the Child Support, Pensions and Social Security Act 2000) against the decision only if the Secretary of State has considered on an application whether to revise the decision under section 16 of that Act.

(3) The notice referred to in paragraph (1) must inform the person of the time limit specified in regulation 3A(1)(a) for making an application for a revision.

(4) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a revision under section 16 of that Act.

(5) In this regulation “decision” means a decision mentioned in section 20(1)(a) or (b) of the Child Support Act 1991 (as substituted by section 10 of the Child Support, Pensions and Social Security Act 2000).]

#### Textual Amendments

**F200** Reg. 3B inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), 4(4)

#### Late application for a revision

4.—(1) The time limit for making an application for a revision specified in regulation 3(1) or (3) [<sup>F201</sup>[<sup>F202</sup>or 3A(1)(a)]] may be extended where the conditions specified in the following provisions of this regulation are satisfied.

(2) An application for an extension of time shall be made by [<sup>F203</sup>[<sup>F204</sup>the relevant person,]] the claimant or a person acting on his behalf.

(3) An application shall—

(a) contain particulars of the grounds on which the extension of time is sought and shall contain sufficient details of the decision which it is sought to have revised to enable that decision to be identified; and

(b) be made within 13 months of the date of notification of the decision which it is sought to have revised [<sup>F205</sup>, but if the applicant has requested a statement of the reasons in accordance with [<sup>F206</sup>regulation 3ZA(3)(b) or] regulation 28(1)(b) the 13 month period shall be extended by—

(i) if the statement is provided within one month of the notification, an additional 14 days; or

(ii) if it is provided after the elapse of a period after the one month ends, the length of that period and an additional 14 days.]

(4) An application for an extension of time shall not be granted unless the applicant satisfies the Secretary of State [<sup>F207</sup>, the Commission] [<sup>F208</sup>or the Board or an officer of the Board] that—

(a) it is reasonable to grant the application;

(b) the application for revision has merit [<sup>F209</sup>, except in a case to which regulation 3ZA or 3B applies]; and

(c) special circumstances are relevant to the application and as a result of those special circumstances it was not practicable for the application to be made within the time limit specified in regulation 3 [F210[F211 or 3A]].

(5) In determining whether it is reasonable to grant an application, the Secretary of State[F207, the Commission][F208 or the Board or an officer of the Board] shall have regard to the principle that the greater the amount of time that has elapsed between the expiration of the time specified in regulation 3(1) and (3) [F212[F213 and regulation 3A(1)(a)]] for applying for a revision and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

(6) In determining whether it is reasonable to grant the application for an extension of time[F214, except in a case to which regulation 3ZA or 3B applies,] no account shall be taken of the following—

(a) that the applicant or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or

(b) that [F215 the Upper Tribunal] or a court has taken a different view of the law from that previously understood and applied.

(7) An application under this regulation for an extension of time which has been refused may not be renewed.

#### Textual Amendments

- F201** Words in reg. 4(1) omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(4)(a)**
- F202** Words in reg. 4(1) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **6(a)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F203** Words in reg. 4(2) omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(4)(b)**
- F204** Words in reg. 4(2) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **6(b)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F205** Words in reg. 4(3)(b) added (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(3)**
- F206** Words in reg. 4(3)(b) inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(5)(a)**
- F207** Words in reg. 4 inserted (6.4.2009) by [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(3)** (with reg. 7)
- F208** Words in reg. 4(4)(5) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **7**
- F209** Words in reg. 4(4)(b) inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(5)(b)**
- F210** Words in reg. 4(4)(c) omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(4)(c)**



- F211** Words in reg. 4(4)(c) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **6(c)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F212** Words in reg. 4(5) omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(4)(d)**
- F213** Words in reg. 4(5) added (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **6(d)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F214** Words in reg. 4(6) inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(5)(c)**
- F215** Words in reg. 4(6)(b) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 100**

### Date from which a decision revised under section 9 takes effect

5.—<sup>[F216(1)]</sup> Where, on a revision under section 9, the Secretary of State <sup>[F217]</sup> or the Board or an officer of the Board] decides that the date from which the decision under section 8 or 10 (“the original decision”) took effect was erroneous, the decision under section 9 shall take effect on the date from which the original decision would have taken effect had the error not been made.

<sup>[F218(2)]</sup> Where—

- (a) a person attains pensionable age, claims a retirement pension after the prescribed time for claiming and the Secretary of State decides (“the original decision”) that he is not entitled because—
  - (i) in the case of a Category A retirement pension, the person has not satisfied the contribution conditions; or
  - (ii) in the case of a Category B retirement pension, the person’s spouse <sup>[F219]</sup> or civil partner] has not satisfied the contribution conditions;
- (b) in accordance with regulation 50A of the Social Security (Contributions) Regulations 2001 (Class 3 contributions: tax years 1996-97 to 2001-02) the Board subsequently accepts Class 3 contributions paid after the due date by the claimant or, as the case may be, the spouse <sup>[F220]</sup> or civil partner];
- (c) in accordance with regulation 6A of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 the contributions are treated as paid on a date earlier than the date on which they were paid; and
- (d) the Secretary of State revises the original decision in accordance with regulation 11A(4) (a),

the revised decision shall take effect from—

- (i) 1<sup>st</sup> October 1998; or
- (ii) the date on which the claimant attained pensionable age in the case of a Category A pension, or, in the case of a Category B pension, the date on which the claimant’s spouse <sup>[F221]</sup> or civil partner] attained pensionable age,

whichever is later.]

**Textual Amendments**

- F216** Reg. 5(1): reg. 5 renumbered as reg. 5(1) (27.9.2004) by [Social Security \(Retirement Pensions\) Amendment Regulations 2004 \(S.I. 2004/2283\)](#), regs. 1, **3**
- F217** Words in reg. 5 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **8**
- F218** Reg. 5(2) added (27.9.2004) by [Social Security \(Retirement Pensions\) Amendment Regulations 2004 \(S.I. 2004/2283\)](#), regs. 1, **3**
- F219** Words in reg. 5(2)(a)(ii) inserted (5.12.2005) by [Social Security \(Civil Partnership\) \(Consequential Amendments\) Regulations 2005 \(S.I. 2005/2878\)](#), regs. 1, **8(3)**
- F220** Words in reg. 5(2)(b) inserted (5.12.2005) by [Social Security \(Civil Partnership\) \(Consequential Amendments\) Regulations 2005 \(S.I. 2005/2878\)](#), regs. 1, **8(3)**
- F221** Words in reg. 5(2)(ii) inserted (5.12.2005) by [Social Security \(Civil Partnership\) \(Consequential Amendments\) Regulations 2005 \(S.I. 2005/2878\)](#), regs. 1, **8(3)**

**[<sup>F222</sup>Date from which a decision revised under section 16 of the Child Support Act takes effect**

**5A.**—[<sup>F223</sup>(1) Where the date from which a decision took effect is found to be erroneous on a revision under section 16 of the Child Support Act, the revision shall take effect from the date on which the decision revised would have taken effect had the error not been made.

<sup>F224</sup>( 2 ) . . . . .

<sup>F224</sup>( 3 ) . . . . .]]

**Textual Amendments**

- F222** Reg. 5A inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), 7 (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F223** Reg. 5A omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**
- F224** Reg. 5A(2) (3) omitted (12.7.2006) by virtue of [Child Support \(Miscellaneous Amendments\) Regulations 2006 \(S.I. 2006/1520\)](#), regs. 1(1), **4(2)**

**CHAPTER II  
SUPERSESIONS**

**Supersession of decisions**

**6.**—(1) Subject to the following provisions of this regulation, for the purposes of section 10, the cases and circumstances in which a decision may be superseded under that section are set out in paragraphs (2) to (4).

(2) A decision under section 10 may be made on the Secretary of State’s [<sup>F225</sup>or the Board’s] own initiative or on an application made for the purpose on the basis that the decision to be superseded—

(a) is one in respect of which—

(i) there has been a relevant change of circumstances since the decision [<sup>F226</sup>had effect][<sup>F227</sup>or, in the case of an advance award under regulation 13, 13A or 13C of

- the Claims and Payments Regulations [<sup>F228</sup>or regulation 146 of the Employment and Support Allowance Regulations], since the decision was made]; or
- (ii) it is anticipated that a relevant change of circumstances will occur;
- (b) is a decision of the Secretary of State [<sup>F229</sup>or the Board or an officer of the Board] other than a decision to which sub-paragraph (d) refers and—
- (i) the decision was erroneous in point of law, or it was made in ignorance of, or was based upon a mistake as to, some material fact; and
- (ii) an application for a supersession was received by the Secretary of State [<sup>F230</sup>or the Board], or the decision by the Secretary of State [<sup>F230</sup>or the Board] to act on his [<sup>F231</sup>or their] own initiative was taken, more than one month after the date of notification of the decision which is to be superseded or after the expiry of such longer period of time as may have been allowed under regulation 4;
- [<sup>F232</sup>(c) is a decision of [<sup>F233</sup>an appeal tribunal, the First-tier Tribunal, the Upper Tribunal or of a Commissioner]—
- (i) that was made in ignorance of, or was based upon a mistake as to, some material fact; or
- (ii) that was made in accordance with section 26(4)(b), in a case where section 26(5) applies;]
- (d) is a decision which is specified in Schedule 2 to the Act or is prescribed in regulation 27 (decisions against which no appeal lies); <sup>F234</sup>...
- [<sup>F235</sup>(e) is a decision where—
- (i) the claimant has been awarded entitlement to a relevant benefit; and
- (ii) [<sup>F236</sup>subsequent to the first day of the period to which that entitlement relates], the claimant or a member of his family becomes entitled to <sup>F237</sup>... another relevant benefit [<sup>F238</sup>or [<sup>F239</sup>Scottish disability benefit]] or an increase in the rate of another relevant benefit [<sup>F238</sup>or [<sup>F239</sup>Scottish disability benefit]];]
- [<sup>F240</sup>(ee) is an original award within the meaning of regulation 3(7ZA) and sub-paragraphs (a) to (c) and (d)(ii) of regulation 3(7ZA) apply but not sub-paragraph (d)(i);]
- [<sup>F241</sup>(f) is a decision that a jobseeker's allowance is payable at the full rate to which the claimant would be entitled in the absence of any reduction where the award is reduced under section 19 of the Jobseekers Act;
- (fa) is a decision that a jobseeker's allowance is payable at the full rate to which the claimant would be entitled in the absence of any reduction where the award is reduced under section 19A of the Jobseekers Act;]
- [<sup>F242</sup>(g) is an incapacity benefit decision where there has been an incapacity determination (whether before or after the decision) and where, since the decision was made, the Secretary of State has received medical evidence following an examination in accordance with regulation 8 of the Social Security (Incapacity for Work) (General) Regulations 1995 from a [<sup>F243</sup>health care professional] referred to in paragraph (1) of that regulation;]<sup>F244</sup>[<sup>F245</sup>...
- (h) is one in respect of a person who—
- (i) is subsequently the subject of a separate decision or determination as to whether or not he took part in a work-focused interview;
- (ii) had been held not to have taken part in a work-focused interview but who had, subsequent to the decision to be superseded, attained [<sup>F246</sup>pensionable age] or ceased

to reside in an area in which there is a requirement to take part in a work-focused interview [<sup>F247</sup>or, in the case of a partner who was required to take part in a work-focused interview [<sup>F248</sup>in accordance with regulations made under section 2AA of the Administration Act, ceased to be a partner for the purposes of those regulations or is no longer a partner to whom the requirement to take part in a work-focused interview under those regulations applies [<sup>F249</sup>(and in this head “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995, save that a man born before 6th April 1955 is treated as attaining pensionable age when a woman born on the same day as the man would attain pensionable age)]]].]

- <sup>F250</sup>(i) . . . . .
- <sup>F251</sup>(j) is a decision of the Secretary of State that a sanctionable benefit is payable to a claimant where that benefit ceases to be payable or falls to be reduced under section [<sup>F252</sup>6B,] 7 or 9 of the Social Security Fraud Act 2001 and for this purpose “sanctionable benefit” has the [<sup>F253</sup>meaning given in section 6A] of that Act;
- (k) is a decision of the Secretary of State that a joint-claim jobseeker’s allowance is payable where that allowance ceases to be payable or falls to be reduced under section 8 of the Social Security Fraud Act 2001.]
- <sup>F254</sup>(l) is a relevant decision for the purposes of section 6 of the State Pension Credit Act and—
- (i) on making that decision, the Secretary of State specified a period as the assessed income period; and
  - (ii) that period has ended or is about to end.]
- <sup>F255</sup>(m) is a relevant decision for the purposes of section 6 of the State Pension Credit Act in a case where—
- (i) the information and evidence required under regulation 32(6)(a) of the Claims and Payments Regulations has not been provided in accordance with the time limits set out in regulation 32(6)(c) of those Regulations;
  - (ii) the Secretary of State was prevented from specifying a new assessed income period under regulation 10(1) of the State Pension Credit Regulations; and
  - (iii) the information and evidence required under regulation 32(6)(a) of the Claims and Payments Regulations has since been provided.]
- <sup>F256</sup>(n) is a decision by [<sup>F257</sup>an appeal tribunal or][<sup>F258</sup>the First-tier Tribunal] confirming a decision by the Secretary of State terminating a claimant’s entitlement to income support because he no longer falls within the category of person specified in paragraph 7 of Schedule 1B to the Income Support Regulations (persons incapable of work) and a further [<sup>F259</sup>decision of an appeal tribunal or the First-tier Tribunal] subsequently determines that he is incapable of work.]
- <sup>F260</sup>(o) is a decision that a person is entitled to state pension credit and—
- (i) the person or his partner makes, or is treated as having made, an election for a lump sum in accordance with—
    - (aa) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act;
    - (bb) paragraph 1 of Schedule 5A to that Act; or, as the case may be,
    - (cc) paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations;
  - or
  - (ii) such a lump sum is repaid in consequence of an application to change an election for a lump sum in accordance with regulation 5 of the Deferral of Retirement Pensions etc.

Regulations or, as the case may be, paragraph 20D of Schedule 1 to the Graduated Retirement Benefit Regulations.]

- [<sup>F261</sup>(oa) is a decision that a person is entitled to state pension credit and—
- (i) the person—
    - (aa) chooses under section 8(2) of the Pensions Act 2014, or under Regulations under section 10 of that Act which make provision corresponding or similar to section 8(2), to be paid a lump sum; or
    - (bb) is entitled to a lump sum under section 8(4) of the Pensions Act 2014, or under Regulations under section 10 of that Act which make provision corresponding or similar to section 8(4), because the person has failed to choose within the period mentioned in section 8(3); or
  - (ii) such a lump sum is repaid in consequence of an application—
    - (aa) to alter the choice mentioned in paragraph (i)(aa) in accordance with regulation 6 of the State Pension Regulations 2015 or Regulations made under section 10 of the Pensions Act 2014 which make provision corresponding or similar to regulation 6 of the State Pension Regulations 2015; or
    - (bb) to make a late choice in accordance with regulation 4(4) of the State Pension Regulations 2015 (when a choice of lump sum or survivor's pension may be made) or Regulations made under section 10 of the Pensions Act 2014 which make provision corresponding or similar to regulation 4(4) of the State Pension Regulations 2015;]
- [<sup>F262</sup>(p) is a decision awarding employment and support allowance where there has been a failure determination;
- (q) is a decision made in consequence of a failure determination where the reduction ceases to have effect under of regulation 64 of the Employment and Support Allowance Regulations];
- [<sup>F263</sup>(r) is an employment and support allowance decision where, since the decision was made, the Secretary of State has—
- (i) received medical evidence from a health care professional approved by the Secretary of State, or
  - (ii) made a determination that the claimant is to be treated as having limited capability for work in accordance with regulation 20, 25, 26 or 33(2) of the Employment and Support Allowance Regulations.]
- [<sup>F264</sup>(s) is a decision where on or after the date on which the decision was made, a late or unpaid contribution is treated as paid under—
- (i) regulation 5 of the Social Security (Crediting and Treatment of Contributions and National Insurance Numbers) Regulations 2001 (treatment of late paid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made;
  - (ii) regulation 6 of those Regulations (treatment of contributions paid late through ignorance or error) on a date which falls on or before the date on which the original decision was made; or
  - (iii) regulation 60 of the Social Security (Contributions) Regulations 2001 (treatment of unpaid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made.]

[<sup>F265</sup>(sa) is a decision where on or after the date on which the decision was made, a late contribution is treated as paid by virtue of regulation 4 of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 for the purposes of entitlement to—

- (i) a bereavement benefit;
- (ii) a Category A or Category B retirement pension under Part II of the Contributions and Benefits Act; or
- (iii) a state pension under Part 1 of the Pensions Act 2014;]

[<sup>F266</sup>(t) is a decision awarding income support where there has been a determination by the Secretary of State under regulation 6(2) of the Income Support Work-Related Activity Regulations that a person has failed to undertake work-related activity;

(u) is a decision made in consequence of a determination by the Secretary of State that a person has failed to undertake work-related activity where a reduction under regulation 8(1) of the Income Support Work-Related Activity Regulations ceases to have effect by virtue of regulation 9 of those Regulations.]

(3) A decision which may be revised under regulation 3 may not be superseded under this regulation except where—

- (a) circumstances arise in which the Secretary of State [<sup>F267</sup>or the Board or an officer of the Board] may revise that decision under regulation 3; and
- (b) further circumstances arise in relation to that decision which are not specified in regulation 3 but are specified in paragraph (2) or (4).

(4) Where the Secretary of State requires [<sup>F268</sup>or the Board require] further evidence or information from the applicant in order to consider all the issues raised by an application under paragraph (2) (“the original application”), he [<sup>F269</sup>or they] shall notify the applicant that further evidence or information is required and the decision may be superseded—

- (a) where the applicant provides further relevant evidence or information within one month of the date of notification or such longer period of time as the Secretary of State [<sup>F270</sup>or the Board] may allow; or
- (b) where the applicant does not provide such evidence or information within the time allowed under sub-paragraph (a), on the basis of the original application.

(5) The Secretary of State [<sup>F271</sup>or the Board] may treat an application for a revision or a notification of a change of circumstances as an application for a supersession.

(6) The following events are not relevant changes of circumstances for the purposes of paragraph (2)—

- (a) the repayment of a loan to which regulation 66A of the Income Support Regulations <sup>M14</sup>[<sup>F272</sup>, regulation 137 of the Employment and Support Allowance Regulations] or regulation 136 of the Jobseeker’s Allowance Regulations applies;

<sup>F273</sup>(b) .....

[<sup>F274</sup>(c) the fact that a person has become terminally ill, within the meaning of section 66(2)(a) of the Contributions and Benefits Act, unless an application for supersession which contains an express statement that the person is terminally ill is made either by—

- (i) the person himself; or
- (ii) any other person purporting to act on his behalf whether or not that other person is acting with his knowledge or authority;

and where such an application is received a decision may be so superseded notwithstanding that no claim under section 66(1) or, as the case may be, 72(5) or 73(12) of that Act has been made.]

(7) In paragraph (6)(b), “nursing home” and “residential care home” have the same meanings as they have in regulation 19 of the Income Support Regulations.

[<sup>F275</sup>(8) In relation to the assessed income period, the only change of circumstance relevant for the purposes of paragraph (2)(a) is that the assessed income period ends in accordance with section 9(4) of the State Pension Credit Act or the regulations made under section 9(5) of that Act.]

### Textual Amendments

- F225** Words in reg. 6(2) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **9(2)(a)**
- F226** Words in reg. 6(2)(a)(i) substituted (5.5.2003) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1050), regs. 1(1)(a), **3(3)(a)** (with reg. 6)
- F227** Words in reg. 6(2)(a)(i) inserted (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **2(4)(a)**
- F228** Words in reg. 6(2)(a)(i) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **32(2)(a)**
- F229** Words in reg. 6(2)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **9(2)(b)(i)**
- F230** Words in reg. 6(2)(b)(ii) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **9(2)(b)(ii)**
- F231** Words in reg. 6(2)(b)(ii) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **9(2)(b)(iii)**
- F232** Reg. 6(2)(c) substituted (5.5.2003) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1050), regs. 1(1)(a), **3(3)(b)** (with reg. 6)
- F233** Words in reg. 6(2)(c) substituted (14.5.2012 (retrospective to 1.11.2008 in accordance with reg. 1(2))) by The Social Security and Child Support (Supersession of Appeal Decisions) Regulations 2012 (S.I. 2012/1267), regs. 1, **4(2)(a)**
- F234** Word in reg. 6(2)(d) omitted (5.5.2003) by virtue of The Social Security and Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1050), regs. 1(1)(a), **3(3)(c)** (with reg. 6)
- F235** Reg. 6(2)(e) substituted (19.6.2000) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2000 (S.I. 2000/1596), regs. 1(1), **16**
- F236** Words in reg. 6(2)(e)(ii) substituted (2.4.2002) by Social Security (Claims and Payments and Miscellaneous Amendments) Regulations 2002 (S.I. 2002/428), regs. 1(1), **4(3)(a)**
- F237** Words in reg. 6(2)(e)(ii) omitted (2.4.2002) by virtue of Social Security (Claims and Payments and Miscellaneous Amendments) Regulations 2002 (S.I. 2002/428), regs. 1(1), **4(3)(b)**
- F238** Words in reg. 6(2)(e)(ii) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), arts. 1(2), **6(4)**
- F239** Words in reg. 6(2)(e)(ii) substituted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **6(4)**
- F240** Reg. 6(2)(ee) inserted (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **2(4)(b)**
- F241** Reg. 6(2)(f)(fa) substituted (22.10.2012) by The Jobseekers Allowance (Sanctions) (Amendment) Regulations 2012 (S.I. 2012/2568), regs. 1(1), **6(3)**

- F242** Reg. 6(2)(g) inserted (5.7.1999) by The Social Security and Child Support (Decisions and Appeals) Amendment (No. 2) Regulations 1999 (S.I. 1999/1623), regs. 1(1), **3**
- F243** Words in reg. 6(2)(g) substituted (30.10.2008) by Social Security (Miscellaneous Amendments) (No.5) Regulations 2008 (S.I. 2008/2667), regs. 1, **3(3)(a)**
- F244** Word in reg. 6(2)(g) omitted (5.5.2003) by virtue of The Social Security and Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1050), regs. 1(1)(a), **3(3)(d)** (with reg. 6)
- F245** Reg. 6(2)(h) and word added (3.4.2000) by The Social Security (Work-focused Interviews) Regulations 2000 (S.I. 2000/897), reg. 1, **Sch. 6 para. 4** (with reg. 2(5))
- F246** Words in reg. 6(2)(h)(ii) substituted (6.4.2010) by The Social Security (Work-focused Interviews etc.) (Equalisation of State Pension Age) Amendment Regulations 2010 (S.I. 2010/563), regs. 1, **2(a)**
- F247** Words in reg. 6(2)(h)(ii) added (12.4.2004) by The Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003 (S.I. 2003/1886), regs. 1, **15(4)**
- F248** Words in reg. 6(2)(h)(ii) substituted (26.4.2004) by Social Security (Working Neighbourhoods) Regulations 2004 (S.I. 2004/959), regs. 1, **24(3)**
- F249** Words in reg. 6(2)(h)(ii) inserted (6.4.2010) by The Social Security (Work-focused Interviews etc.) (Equalisation of State Pension Age) Amendment Regulations 2010 (S.I. 2010/563), regs. 1, **2(b)**
- F250** Reg. 6(2)(i) omitted (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of Welfare Reform Act 2009 (Section 26) (Consequential Amendments) Regulations 2010 (S.I. 2010/424), **reg. 4(4)**
- F251** Reg. 6(2)(j)(k) added (1.4.2002) by Social Security (Loss of Benefit) (Consequential Amendments) Regulations 2002 (S.I. 2002/490), regs. 1(1), **8(b)**
- F252** Word in reg. 6(2)(j) inserted (1.4.2010) by The Social Security (Loss of Benefit) Amendment Regulations 2010 (S.I. 2010/1160), regs. 1, **3(3)(a)**
- F253** Words in reg. 6(2)(j) substituted (1.4.2010) by The Social Security (Loss of Benefit) Amendment Regulations 2010 (S.I. 2010/1160), regs. 1, **3(3)(b)**
- F254** Reg. 6(2)(l) added (7.4.2003) by State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019), regs. 1(2)(a), **17(a)**
- F255** Reg. 6(2)(m) added (6.10.2003) by State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **5(2)**
- F256** Reg. 6(2)(n) added (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **2(4)(c)**
- F257** Words in reg. 6(2)(n) inserted (14.5.2012 (retrospective to 1.11.2008 in accordance with reg. 1(2))) by , regs. 1The Social Security and Child Support (Supersession of Appeal Decisions) Regulations 2012 (S.I. 2012/1267), **4(2)(b)(i)**
- F258** Words in reg. 6(2)(n) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 101(b)(i)**
- F259** Words in reg. 6(2)(n) substituted (14.5.2012 retrospective to 1.11.2008 in accordance with reg. 1(2)) by The Social Security and Child Support (Supersession of Appeal Decisions) Regulations 2012 (S.I. 2012/1267), regs. 1, **4(2)(b)(ii)**
- F260** Reg. 6(2)(o) inserted (6.4.2006) by Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 (S.I. 2005/2677), regs. 1(1), **9(4)**
- F261** Reg. 6(2)(oa) inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **18(5)**
- F262** Reg. 6(2)(p)-(q) added (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **32(2)(e)**
- F263** Reg. 6(2)(r) substituted (28.6.2010) by Social Security (Miscellaneous Amendments) (No.3) Regulations 2010 (S.I. 2010/840), regs. 1, **7(3)**
- F264** Reg. 6(2)(s) inserted (30.10.2008) by Social Security (Miscellaneous Amendments) (No.5) Regulations 2008 (S.I. 2008/2667), regs. 1, **3(3)(b)**



- F265** Reg. 6(2)(sa) inserted (1.1.2017) by The Social Security (Credits, and Crediting and Treatment of Contributions) (Consequential and Miscellaneous Amendments) Regulations 2016 (S.I. 2016/1145), regs. 1, **4(4)**
- F266** Reg. 6(2)(t)(u) inserted (28.4.2014) by The Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014 (S.I. 2014/1097), regs. 1(1), **12(4)**
- F267** Words in reg. 6(3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **9(3)**
- F268** Words in reg. 6(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **9(4)(a)**
- F269** Words in reg. 6(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **9(4)(b)**
- F270** Words in reg. 6(4)(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **9(4)(c)**
- F271** Words in reg. 6(5) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **9(5)**
- F272** Words in reg. 6(6)(a) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **32(3)**
- F273** Reg. 6(6)(b) omitted (18.3.2005) by virtue of The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **2(4)(d)**
- F274** Reg. 6(6)(c) added (18.10.1999) by The Social Security and Child Support (Decisions and Appeals), Vaccine Damage Payments and Jobseeker's Allowance (Amendment) Regulations 1999 (S.I. 1999/2677), regs. 1, **7(b)**
- F275** Reg. 6(8) added (7.4.2003) by State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019), regs. 1(2)(a), **17(b)**

#### Modifications etc. (not altering text)

- C9** Reg. 6(2) modified (22.11.2010) by The Jobseekers Allowance (Work for Your Benefit Pilot Scheme) Regulations 2010 (S.I. 2010/1222), regs. 1(2), **20(b)**
- C10** Reg. 6(2)(r) applied (with modifications) (temp.) (13.3.2020) by The Employment and Support Allowance and Universal Credit (Coronavirus Disease) Regulations 2020 (S.I. 2020/289), regs. 1(1), **3** (with reg. 5) (as amended (30.3.2020) by The Social Security (Coronavirus) (Further Measures) Regulations 2020 (S.I. 2020/371), regs. 1(1), **10(3)**); with amendment to earlier affecting provision S.I. 2020/289, reg. 5(2) (12.5.2021) by The Social Security (Coronavirus) (Miscellaneous Amendments) Regulations 2021 (S.I. 2021/476), regs. 1, **2**

#### Marginal Citations

- M14** Regulation 66A was inserted by S.I. 1990/1549; relevant amending instruments are S.I. 1991/236, S.I. 1991/1559 and S.I. 1996/462.

#### <sup>F276</sup>Supersession of child support decisions

**6A.**—<sup>F278</sup>(1) This regulation and regulation 6B set out the circumstances in which a decision may be made by the <sup>F281</sup>Secretary of State] under section 17 of the Child Support Act (decisions superseding earlier decisions).

(2) A decision may be superseded by a decision of the <sup>F282</sup>Secretary of State], on an application or acting under <sup>F282</sup>the Secretary of State's] own initiative, where—

- (a) there has been a relevant change of circumstances since the decision had effect or it is expected that a relevant change of circumstances will occur;
- (b) the decision was made in ignorance of, or was based on a mistake as to, some material fact; or

(c) the decision was wrong in law (unless it was a decision made on appeal).

(3) The circumstances in which a decision may be superseded include where the relevant change of circumstances causes the maintenance calculation to cease by virtue of paragraph 16 of Schedule 1 to the Child Support Act or where the [F283Secretary of State] no longer has jurisdiction by virtue of section 44 of that Act.

(4) A decision may be superseded by a decision of the [F283Secretary of State] where the [F283Secretary of State] receives an application for a variation of the decision under section 28G of the Child Support Act.

(5) A decision may not be superseded in circumstances where it may be revised.

(6) A decision to refuse an application for a maintenance calculation may not be superseded.]]

#### Textual Amendments

- F276** Reg. 6A - Reg. 6B inserted (3.3.2003 for specified purposes being the date on which 2000 c. 19, s. 9 comes into force for those purposes by virtue of S.I. 2003/192, art. 3 ) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **8** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F277** Reg. 6A omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**
- F278** Reg. 6A substituted (6.4.2009) by [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(4)** (with reg. 7)
- F279** Reg. 6A(4A) inserted (5.5.2003 and for specified purposes, being the date on which 2000 c. 19, s. 9 comes into force for those purposes by virtue of S.I. 2003/192, art. 3, 5.5.2003 in so far as not already in force) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1050\)](#), regs. 1(1)(b), **3(4)** (with reg. 6)
- F280** Words in reg. 6A(4A) substituted (14.5.2012 retrospective to 3.11.2008 in accordance with reg. 1(2)) by [The Social Security and Child Support \(Supersession of Appeal Decisions\) Regulations 2012 \(S.I. 2012/1267\)](#), regs. 1, **4(3)**
- F281** Words in reg. 6A(1) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(4)(a)**
- F282** Words in reg. 6A(2) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(4)(b)**
- F283** Words in reg. 6A(3)(4) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(4)(c)**

#### Circumstances in which a child support decision may not be superseded

**6B.**—[F284(1) Except as provided in paragraph (4), and subject to paragraph (3), a decision of the [F285Secretary of State], [F286an appeal tribunal, the First-tier Tribunal, the Upper Tribunal or a Child Support Commissioner], on an application made under regulation [F2876A(2)(a)], shall not be superseded where the difference between—

- (a) the non-resident parent's net income figure fixed for the purposes of the maintenance calculation in force in accordance with Part I of Schedule 1 to the Child Support Act; and
- (b) the non-resident parent's net income figure which would be fixed in accordance with a superseding decision,

is less than 5% of the figure in sub-paragraph (a).

(2) In paragraph (1) “superseding decision” means a decision which would supersede the decision subject to the application made under regulation [F287 6A(2)(a)] but for the application of this regulation.

[F288(3) Where the application for a supersession is made on more than one ground, if those grounds which do not relate to the net income of the non-resident parent lead to a superseding decision this regulation shall not apply to the ground relating to the net income of that parent.]

(4) This regulation shall not apply to a decision under regulation [F287 6A(2)(a)] where—

- (a) the superseding decision is made in consequence of the determination of an application made under section 28G of the Child Support Act;
- (b) the superseding decision affects a variation ground in a decision made under section 11 or 17 of the Child Support Act, whether as originally made or as revised under section 16 of that Act;
- (c) the decision being superseded was made under section 12(2) of the Child Support Act, or was a decision under section 17 of that Act superseding an interim maintenance decision, whether as originally made or as revised under section 16 of that Act;

<sup>F289</sup>(d) .....; <sup>F290</sup> ...

- (e) the superseding decision takes effect from the dates prescribed in regulation [F291 paragraph 4 of Schedule 3D][F292]; or
- (f) a decision is superseded and in relation to that superseding decision a maintenance calculation is made to which paragraph 15 of Schedule 1 to the Child Support Act applies.]

[F293(5) Where an application has been made to which paragraph (1) applied (“application A”) and a further application (“application B”) is made for a supersession on a ground other than one relating to the net income of the non-resident parent, the [F294 Secretary of State] may make a superseding decision on the basis that application A was made at the same time as application B.]]

**Textual Amendments**

- F276** Reg. 6A - Reg. 6B inserted (3.3.2003 for specified purposes being the date on which 2000 c. 19, s. 9 comes into force for those purposes by virtue of S.I. 2003/192, art. 3 ) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **8** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F284** Reg. 6B omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**
- F285** Words in reg. 6B(1) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(5)**
- F286** Words in reg. 6B(1) substituted (14.5.2012 retrospective to 3.11.2008 in accordance with reg. 1(2)) by [The Social Security and Child Support \(Supersession of Appeal Decisions\) Regulations 2012 \(S.I. 2012/1267\)](#), regs. 1, **4(4)**
- F287** Word in reg. 6B substituted (6.4.2009) by [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(5)(b)** (with reg. 7)
- F288** Reg. 6B(3) substituted (16.9.2004 for specified purposes and in accordance with reg. 1(2)(b)) by [The Child Support \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/2415\)](#), **regs. 1(2)(b), 2(2)(a)**
- F289** Reg. 6B(4)(d) omitted (6.4.2009) by virtue of [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(5)(c)** (with reg. 7)

- F290** Word in reg. 6B(4)(d) omitted (4.7.2011) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(3)(a)**
- F291** Words in reg. 6B(4)(e) substituted (6.4.2009) by [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(5)(d)** (with reg. 7)
- F292** Reg. 6B(4)(f) and word added (4.7.2011) by [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(3)(b)**
- F293** Reg. 6B(5) inserted (16.9.2004 for specified purposes and in accordance with reg. 1(2)(b)) by [The Child Support \(Miscellaneous Amendments\) Regulations 2004 \(S.I. 2004/2415\)](#), **regs. 1(2)(b), 2(2)(b)**
- F294** Words in reg. 6B(5) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(5)**

### Date from which a decision superseded under section 10 takes effect

7.—<sup>F295</sup>(1) This regulation—

- (a) <sup>F296</sup>is, except for <sup>F297</sup>paragraphs (2)(b)<sup>F298</sup>, (bb)<sup>F299</sup> or (be)], (29) and (30)] and (29), subject to Schedules 3A<sup>F300</sup>, 3B and 3C]; and
- (b) contains exceptions to the provisions of section 10(5) as to the date from which a decision under section 10 which supersedes an earlier decision is to take effect.]

(2) Where a decision under section 10 is made on the ground that there has been, or it is anticipated that there will be, a relevant change of circumstances since the decision <sup>F301</sup>had effect<sup>F302</sup> or, in the case of an advance award, since the decision was made], the decision under section 10 shall take effect—

<sup>F303</sup>(a) from the date the change occurred or, where the change does not have effect until a later date, from the first date on which such effect occurs where—

- (i) the decision is advantageous to the claimant; and
- (ii) the change was notified to an appropriate office within one month of the change occurring or within such longer period as may be allowed under regulation 8 for the claimant's failure to notify the change on an earlier date; and
- (ii) head (i) of sub-paragraph (c) shall be omitted.]
- (b) where the decision is advantageous to the claimant and the change was notified to an appropriate office more than one month after the change occurred or after the expiry of any such longer period as may have been allowed under regulation 8—

(i) in the case of a claimant who is in receipt of income support<sup>F304</sup>, jobseeker's allowance<sup>F305</sup>, state pension credit or an employment and support allowance]] and benefit is paid in arrears, from the beginning of the benefit week in which the notification was made;

(ii) in the case of a claimant who is in receipt of income support<sup>F304</sup>, jobseeker's allowance or state pension credit] and benefit is paid in advance and the date of notification is the first day of a benefit week from that date and otherwise, from the beginning of the benefit week following the week in which the notification was made; or

(iii) in any other case, the date of notification of the relevant change of circumstances; or

<sup>F306</sup>(bb) where the decision is advantageous to the claimant and is made on the Secretary of State's own initiative—

(i) except where paragraph (ii) applies, from the beginning of the benefit week in which the Secretary of State commenced action with a view to supersession; or

- (ii) in the case of a claimant who is in receipt of income support, jobseeker's allowance or state pension credit where benefit is paid in advance and the Secretary of State commenced action with a view to supersession on a day which was not the first day of the benefit week, from the beginning of the benefit week following the week in which the Secretary of State commenced such action;]

[<sup>F307</sup>(bc) where—

- (i) the claimant is a disabled person or a disabled person's partner;
- (ii) the decision is advantageous to the claimant; and
- (iii) the decision is made in connection with the cessation of payment of a carer's allowance [<sup>F308</sup>or carer support payment] relating to that disabled person, the day after the last day for which carer's allowance [<sup>F308</sup>or carer support payment] was paid to a person other than the claimant or the claimant's partner;]

<sup>F309</sup>( bd) .....

[<sup>F310</sup>(be) in the case of a claimant who is in receipt of an employment and support allowance and the claimant makes an application which contains an express statement that he is terminally ill within the meaning of regulation 2(1) of the Employment and Support Allowance Regulations , from the date the claimant became terminally ill;]

(c) where the decision is not advantageous to the claimant—

<sup>F311</sup>( i) .....

[<sup>F312</sup>(ii) in the case of a disability benefit decision, or an incapacity benefit decision where there has been an incapacity determination [<sup>F313</sup>or an employment and support allowance decision where there has been a limited capability for work determination] (whether before or after the decision), where the Secretary of State is satisfied that in relation to a disability determination embodied in or necessary to the disability benefit decision, or the incapacity determination [<sup>F313</sup>or an employment and support allowance decision where there has been a limited capability for work determination], the claimant or payee failed to notify an appropriate office of a change of circumstances which regulations under the Administration Act required him to notify, and the claimant or payee, as the case may be, knew or could reasonably have been expected to know that the change of circumstances should have been notified,

(aa) from the date on which the claimant or payee, as the case may be, ought to have notified the change of circumstances, or

(bb) if more than one change has taken place between the date from which the decision to be superseded took effect and the date of the superseding decision, from the date on which the first change ought to have been notified, or]

<sup>F314</sup>( iii) .....

[<sup>F315</sup>(iv) in the case of a disability benefit decision, where the change of circumstances is not in relation to the disability determination embodied in or necessary to the disability benefit decision, from the date of the change; or

(v) in any other case, except in the case of a decision which supersedes a disability benefit decision, from the date of the change.]

[<sup>F316</sup>( 2A ) <sup>F317</sup> .....

<sup>F318</sup>(2B) For the purposes of paragraph (2) “carer support payment” means carer’s assistance given in accordance with the Carer’s Assistance (Carer Support Payment) (Scotland) Regulations 2023.]

<sup>F319</sup>(3) For the purposes of paragraphs (2) and (8) “benefit week” has the same meaning, as the case may be, as in—

- (a) regulation 2(1) of the Income Support Regulations;
- (b) regulation 1(3) of the Jobseeker’s Allowance Regulations;
- (c) regulation 1(2) of the State Pension Credit Regulations; or
- (d) regulation 2(1) of the Employment and Support Allowance Regulations.]

(4) In paragraph (2) a decision which is to the advantage of the claimant includes a decision specified in regulation 30(2)(a) to (f).

<sup>F320</sup>(5) Where the Secretary of State supersedes a decision made by <sup>F321</sup>an appeal tribunal, the First-tier Tribunal, the Upper Tribunal or a Commissioner] on the grounds specified in regulation 6(2)(c)<sup>F322</sup>(i) (ignorance of, or mistake as to, a material fact), the decision under section 10 shall take effect, in a case where, as a result of that ignorance of or mistake as to material fact, the decision to be superseded was more advantageous to the claimant than it would otherwise have been and which either—

- (a) does not relate to a disability benefit decision or an incapacity benefit decision where there has been an incapacity determination; or
- (b) relates to a disability benefit decision or an incapacity benefit decision where there has been an incapacity determination, and the Secretary of State is satisfied that at the time the decision was made the claimant or payee knew or could reasonably have been expected to know of the fact in question and that it was relevant to the decision,

from the date on which the decision of <sup>F321</sup>an appeal tribunal, the First-tier Tribunal, the Upper Tribunal or a Commissioner] took, or was to take, effect.]

(6) Any decision made under section 10 in consequence of a decision which is a relevant determination for the purposes of section 27 shall take effect as from the date of the relevant determination.

<sup>F323</sup>(6A) Where—

- (a) there is a decision which is a relevant determination for the purposes of section 27 and the Secretary of State makes a benefit decision of the kind specified in section 27(1)(b);
- (b) there is an appeal against the determination;
- (c) after the benefit decision payment is suspended in accordance with regulation 16(1) and (3)(b)(ii); and
- (d) on appeal a court, within the meaning of section 27, reverses the determination in whole or in part,

a consequential decision by the Secretary of State under section 10 which supersedes his earlier decision under sub-paragraph (a) shall take effect from the date on which the earlier decision took effect.]

<sup>F324</sup>(7) A decision which is superseded in accordance with regulation 6(2)(e) or (ee) shall be superseded—

- (a) subject to sub-paragraph (b), from the date on which entitlement arises to the other relevant benefit <sup>F325</sup>or <sup>F326</sup>Scottish disability benefit]] referred to in regulation 6(2)(e)(ii) or (ee) or to an increase in the rate of that other relevant benefit <sup>F325</sup>or <sup>F326</sup>Scottish disability benefit]]]; or

- (b) where the claimant or his partner—
  - (i) is not a severely disabled person for the purposes of section 135(5) of the Contributions and Benefits Act (the applicable amount) or section 2(7) of the State Pension Credit Act (guarantee credit) [<sup>F327</sup>or paragraph 6 of Schedule 4 to the Employment and Support Allowance Regulations;]
  - (ii) by virtue of his having—
    - (aa) a non-dependant as defined by regulation 3 of the Income Support Regulations[<sup>F328</sup>, regulation 2 of the Jobseeker’s Allowance Regulations][<sup>F329</sup>or regulation 71 of the Employment and Support Allowance Regulations]; or
    - (bb) a person residing with him for the purposes of paragraph 1 of Schedule 1 to the State Pension Credit Regulations whose presence may not be ignored in accordance with paragraph 2 of that Schedule,

at the date the superseded decision would, but for this sub-paragraph, have had effect, from the date on which the claimant or his partner ceased to have a non-dependant or person residing with him or from the date on which the presence of that person was first ignored.]

[<sup>F330</sup>(7A) Where a decision is superseded in accordance with regulation 6(2)(o), [<sup>F331</sup>or (oa)] the superseding decision shall take effect from the day on which a lump sum, or a payment on account of a lump sum, is paid or repaid if that day is the first day of the benefit week but, if it is not, from the next following such day.]

[<sup>F332</sup>(8) A decision to which regulation 6(2)(f) applies shall take effect from the beginning of the period specified in regulation 69(6) of the Jobseeker’s Allowance Regulations.]

[<sup>F333</sup>(8ZA) A decision to which regulation 6(2)(fa) applies shall take effect from the beginning of the period specified in regulation 69A(3) of the Jobseeker’s Allowance Regulations.]

<sup>F334</sup>(8ZB) .....

[<sup>F335</sup>(8A) Where a decision is superseded in accordance with regulation 6(2)(s), the superseding decision shall take effect from the date on which the late or unpaid contribution is treated as paid.]

[<sup>F336</sup>(9) [<sup>F337</sup>Except where paragraph (9A) applies,] a decision relating to attendance allowance or disability living allowance which is advantageous to the claimant and which is made under section 10 on the basis of a relevant change of circumstances shall take effect from—

- (a) [<sup>F338</sup>where the decision is made on the Secretary of State’s own initiative—
  - (i) the date on which the Secretary of State commenced action with a view to supersession; or
  - (ii) subject to paragraph (30), in a case where the relevant circumstances are that there has been a change in the legislation in relation to attendance allowance or disability living allowance, the date on which that change in the legislation had effect;]

- (b) where—
  - (i) the change is relevant to the question of entitlement to a particular rate of benefit; and
  - (ii) the claimant notifies the change before a date one month after he satisfied the conditions of entitlement to that rate or within such longer period as may be allowed under regulation 8,

the [<sup>F339</sup>date on which] he satisfied those conditions;

- (c) where—

- (i) the change is relevant to the question of whether benefit is payable; and
- (ii) the claimant notifies the change before a date one month after the change or within such longer period as may be allowed under regulation 8, the [<sup>F340</sup>date on which] the change occurred; or
- (d) in any other case, the date of the application for the superseding decision.]

[<sup>F341</sup>(9A) Where—

- (a) on or after 8th March 2001, the claimant had an award of attendance allowance, carer's allowance, or the care component of disability living allowance;
- (b) the Secretary of State made a superseding decision in accordance with regulation 6(2)(a) to end that award on the ground that there had been, or it was anticipated that there would be, a relevant change of circumstances as a result of the claimant moving, or planning to move, from Great Britain to an EEA state or Switzerland; and
- (c) the Secretary of State supersedes that decision in accordance with regulation 6(2)(b)(i) on the ground that it was erroneous in point of law,

the superseding decision referred to in sub-paragraph (c) shall take effect from 18th October 2007.]

(10) A decision as to an award of incapacity benefit, which is made under section 10 because section 30B(4) of the Contributions and Benefits Act applies to the claimant, shall take effect as from the date on which he became entitled to the highest rate of the care component of disability living allowance.

(11) A decision as to an award of incapacity benefit or severe disablement allowance, which is made under section 10 because the claimant is to be treated as incapable of work under regulation 10 of the Social Security (Incapacity for Work) (General) Regulations 1995 <sup>M15</sup> (certain persons with a severe condition to be treated as incapable of work), shall take effect as from the date he is to be treated as incapable of work.

(12) Where this paragraph applies, a decision under section 10 may be made so as to take effect as from such date not more than eight weeks before—

- (a) the application for supersession; or
- (b) where no application is made, the date on which the decision under section 10 is made,

as is reasonable in the particular circumstances of the case.

[<sup>F342</sup>(12A) Paragraph (12) applies where—

- (a) the effect of a decision under section 10 is that owner-occupier loan payments are to be made to a claimant in respect of the claimant's liability to make owner-occupier payments; and
- (b) that decision could not have been made earlier because information necessary to make that decision, requested otherwise than in accordance with paragraph 8 of Schedule 4 to the Loans for Mortgage Interest Regulations (provision of information), had not been supplied to the Secretary of State by the lender.

(12B) Where a claimant is receiving owner-occupier loan payments and there is a reduction in the amount owing in connection with a qualifying loan or alternative finance arrangement (within the meaning in Schedule 1 to the Loans for Mortgage Interest Regulations (meaning of owner-occupier payments)), a decision made under section 10 takes effect—

- (a) on the first anniversary of the date on which the claimant's liability to make owner-occupier payments was first met by an owner-occupier loan payment; or



- (b) where the reduction in the amount owing in connection with a qualifying loan or alternative finance arrangement occurred after the first anniversary of the date referred to in sub-paragraph (a), on the next anniversary of that date following the date of the reduction.

(12C) Where a claimant is receiving owner-occupier loan payments, an insurance payment deduction is made under regulation 14A(1) of the Loans for Mortgage Interest Regulations (insurance payment deduction) in relation to any decision under section 8 or 10 and there is a change in the amount of the owner-occupier payments payable—

- (a) on a qualifying loan or alternative finance arrangement (within the meaning in Schedule 1 to the Loans for Mortgage Interest Regulations (meaning of owner-occupier payments)) to which those payments relate; or
- (b) on a loan or alternative finance arrangement not so qualifying which is secured on the dwelling occupied as the home to which those payments relate,

a decision under section 10 which is made as a result of that change in the amount of the owner-occupier payments payable shall take effect on whichever of the dates referred to in paragraph (12D) is appropriate in the claimant’s case.

(12D) The date on which a decision under section 10 takes effect for the purposes of paragraph (12C) is—

- (a) the date on which the claimant’s liability to make owner-occupier payments is first met by an owner-occupier loan payment; or
- (b) where the change in the amount of the owner-occupier payments payable occurred after the date referred to in sub-paragraph (a), on the date of the next alteration in the standard rate following the date of that change.

(12E) In paragraph (12D), “standard rate” has the same meaning as it has in regulation 13 of the Loans for Mortgage Interest Regulations (standard rate to be applied under regulations 11 and 12).

(12F) Paragraph (12G) applies where—

- (a) a claimant is awarded state pension credit;
- (b) the claimant or the claimant’s partner has reached pensionable age (within the meaning in section 122(1) of the Contributions and Benefits Act);
- (c) the claimant is in receipt of owner-occupier loan payments; and
- (d) after the date from which sub-paragraph (c) applies—
  - (i) a non-dependant (within the meaning in regulation 2(1) of the Loans for Mortgage Interest Regulations) begins to reside with the claimant; or
  - (ii) there has been a change of circumstances in respect of a non-dependant and this reduces the amount of the owner-occupier loan payments.

(12G) Where this paragraph applies, a decision made under section 10 shall take effect—

- (a) where there is more than one change of the kind specified in paragraph (12F)(d) in respect of the same non-dependant within the same 26 week period, 26 weeks after the date on which the first such change occurred; and
- (b) in any other circumstances, 26 weeks after the date on which a change specified in paragraph (12F)(d) occurred.]

- F343(13) .....
- F343(14) .....
- F343(15) .....
- F343(16) .....

- F<sup>343</sup>(17) .....
- F<sup>343</sup>(17A) .....
- F<sup>343</sup>(17B) .....
- F<sup>343</sup>(17C) .....
- F<sup>343</sup>(17D) .....
- F<sup>343</sup>(17E) .....
- F<sup>343</sup>(17F) .....
- F<sup>343</sup>(17G) .....

[<sup>F344</sup>(17H) Where the decision is superseded in accordance with regulation 6(2)(a)(i) and the relevant circumstances are that the claimant has a non-dependant who has become entitled to main phase employment and support allowance, the superseding decision shall take effect from the date the main phase employment and support allowance is first paid to the non-dependant.]

- F<sup>345</sup>(18) .....
- F<sup>345</sup>(19) .....
- F<sup>345</sup>(20) .....
- F<sup>345</sup>(21) .....
- F<sup>345</sup>(22) .....
- F<sup>345</sup>(23) .....

(24) Where—

- (a) it has been determined that the amount of a jobseeker’s allowance payable to a young person is to be reduced under regulation 63 of the Jobseeker’s Allowance Regulations because paragraph (1)(b)(iii), (c), (d), (e) or (f) of that regulation (reduced payments under section 17 of the Jobseekers Act) applied in his case; and
- (b) the decision made in consequence of sub-paragraph (a) falls to be superseded by a decision under section 10 because the Secretary of State has subsequently issued a certificate under section 17(4) of the Jobseekers Act with respect to the failure in question,

the decision under section 10 shall take effect as from the same date as the decision made in consequence of sub-paragraph (a) has effect.

[<sup>F346</sup>[<sup>F347</sup>(25) In a case where a decision (“ the first decision ”) has been made that a person failed without good cause to take part in a work-focused interview, the decision under section 10 shall take effect as from—

- (a) the first day of the benefit week to commence for that person following the date of the first decision; or
- (b) in a case where a partner has failed without good cause to take part in a work-focused interview [<sup>F348</sup>; in accordance with regulations made under section 2AA of the Administration Act]—
  - (i) the first day of the benefit week to commence for the claimant [<sup>F349</sup>(meaning the person who has been awarded a benefit within section 2AA(2) of the Administration Act at a higher rate referable to that partner)] following the date of the first decision; or
  - (ii) if that date arises five days or less after the day on which the first decision was made, as from the first day of the second benefit week to commence for the claimant following the date of the first decision.]

(26) In paragraph (25), “benefit week” means any period of 7 days corresponding to the week in respect of which the relevant social security benefit is due to be paid.]

<sup>F350</sup>(27) . . . . .

[<sup>F351</sup>(28) A decision to which regulation 6(2)(j) or (k) applies shall take effect from the first day of the disqualification period prescribed for the purposes of section [<sup>F352</sup>6B or] 7 of the Social Security Fraud Act 2001.]

[<sup>F353</sup>(29) [<sup>F354</sup>Subject to paragraphs (29A) and (29B), a] decision to which regulation 6(2)(1) (state pension credit) refers shall take effect from the day following the day on which the assessed income period ends if that day is the first day of the claimant’s benefit week, but if it is not, from the next following such day.]

[<sup>F355</sup>(29A) A decision to which regulation 6(2)(1) applies, where—

- (a) the decision is advantageous to the claimant; and
- (b) the information and evidence required under regulation 32(1) of the Claims and Payments Regulations has not been provided within the period allowed under that regulation,

shall take effect from the day the information and evidence required under that regulation is provided if that day is the first day of the claimant’s benefit week, but, if it is not, from the next following such day.

(29B) A decision to which regulation 6(2)(1) applies, where—

- (a) the decision is disadvantageous to the claimant; and
- (b) the information and evidence required under regulation 32(1) of the Claims and Payments Regulations has not been provided within the period allowed under that regulation,

shall take effect from the day after the period allowed under that regulation expired.

(29C) Except where there is a change of circumstances during the period in which the Secretary of State was prevented from specifying a new assessed income period under regulation 10(1) of the State Pension Credit Regulations, a decision to which regulation 6(2)(m) applies shall take effect from the day on which the information and evidence required under regulation 32(6)(a) of the Claims and Payments Regulations was provided.]

[<sup>F356</sup>(30) Where a decision is superseded in accordance with regulation 6(2)(a)(i) and the relevant circumstances are that there has been a change in the legislation in relation to a relevant benefit, the decision under section 10 shall take effect from the date on which that change in the legislation had effect.

[<sup>F357</sup>(30A) Where a decision is superseded in accordance with regulation 6(2)(a)(ii) and the relevant change of circumstances is the coming into force of a change in the legislation in relation to a relevant benefit, the decision under section 10 shall take effect from the date on which that change in the legislation takes effect.]

(31) Where a decision is superseded in accordance with regulation 6(2)(a)(ii) and the relevant circumstances are that—

- (a) a personal capability assessment has been carried out in the case of a person to whom section 171C(4) of the Contributions and Benefits Act applies; and
- (b) the own occupation test remains applicable to him under section 171B(3) of that Act,

the decision under section 10 shall take effect on the day <sup>F358</sup> ... on which the own occupation test is no longer applicable to that person.

(32) For the purposes of paragraph (31)—

- (a) “personal capability assessment” has the same meaning as in regulation 24 of the Social Security (Incapacity for Work) (General) Regulations 1995;
- (b) “own occupation test” has the same meaning as in section 171B(2) of the Contributions and Benefits Act.

(33) A decision to which regulation 6(2)(c)(ii) applies shall take effect from the date on which [<sup>F359</sup>the decision of the appeal tribunal, the First-tier Tribunal, the Upper Tribunal or the Commissioner] would have taken effect had it been decided in accordance with the determination of the [<sup>F360</sup>Upper Tribunal][<sup>F361</sup>or the Commissioner] or the court in the appeal referred to in section 26(1)(b).]

[<sup>F362</sup>(34) A decision which supersedes a decision specified in regulation 6(2)(n) shall take effect from the effective date of the Secretary of State’s decision to terminate income support which was confirmed by the decision specified in regulation 6(2)(n).]

(35) [<sup>F363</sup>A decision made in accordance with regulation 6(2)(p), where the failure determination was made before the 13th week of entitlement, shall take effect from the first day of the benefit week following that week.]

[<sup>F364</sup>A decision made in accordance with regulation 6(2)(p) shall take effect —

- (a) on the first day of the benefit week in which the failure determination was made where, on the date of that determination, the claimant has not been paid an employment and support allowance since the failure to which that determination relates; or
- (b) in any other case, on the first day of the benefit week after the end of the benefit week in respect of which the claimant was last paid an employment and support allowance.]

(37) A decision made in accordance with regulation 6(2)(q) shall take effect from the first day of the benefit week in which the reduction mentioned in that sub-paragraph ceased to have effect.

[<sup>F365</sup>(38) A decision made in accordance with regulation 6(2)(r) that embodies a determination that the claimant has—

- (a) limited capability for work; or
- (b) limited capability for work-related activity; or
- (c) limited capability for work and limited capability for work-related activity

which is the first such determination shall take effect from [<sup>F366</sup>the day after the last day of the relevant period as defined in regulation 4(4) of the Employment and Support Allowance Regulations].]

(39) A decision made in accordance with regulation 6(2)(r), following an application by the claimant, that embodies a determination that the claimant has limited capability for work-related activity shall take effect from the date of the application.

[<sup>F367</sup>(40) A decision made in accordance with regulation 6(2)(r) that embodies a determination that the claimant has—

- (a) limited capability for work; or
- (b) limited capability for work-related activity; or
- (c) limited capability for work and limited capability for work-related activity

where regulation 5 of the Employment and Support Allowance Regulations (assessment phase – previous claimants) applies shall take effect from the beginning of the 14th week of the person’s continuous period of limited capability for work.]

[<sup>F368</sup>(41) A decision made in accordance with regulation 6(2)(t) shall take effect from the first day of the next benefit week following the day on which the determination mentioned in that sub-paragraph was made.

(42) A decision made in accordance with regulation 6(2)(u) shall take effect from the first day of the benefit week in which the reduction mentioned in that sub-paragraph ceased to have effect.]

[<sup>F369</sup>(43) Where the decision is superseded in accordance with regulation 6(2)(sa), the superseding decision shall take effect from the date on which the contributions are treated as paid in accordance with regulation 4(7) of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001 for the purposes of entitlement to—

- (i) a bereavement benefit;
- (ii) a Category A or Category B retirement pension under Part II of the Contributions and Benefits Act; or
- (iii) a state pension under Part 1 of the Pensions Act 2014.]

### Textual Amendments

- F295** Reg. 7(1) substituted (29.11.1999) by [The Social Security Act 1998 \(Commencement No. 12 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/3178\)](#), art. 3(1)(a), **Sch. 19 para. 1** (with art. 3(1)(b), Schs. 21-23)
- F296** Reg. 7(1)(a) substituted (7.4.2003) by [State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(a), **18(a)**
- F297** Words in reg. 7(1)(a) substituted (5.5.2003) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1050\)](#), regs. 1(1)(a), **3(5)(a)** (with reg. 6)
- F298** Word in reg. 7(1)(a) inserted (30.10.2008) by [Social Security \(Miscellaneous Amendments\) \(No.5\) Regulations 2008 \(S.I. 2008/2667\)](#), regs. 1, **3(4)(a)**
- F299** Words in reg. 7(1)(a) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **33(2)(a)**
- F300** Words in reg. 7(1)(a) substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **33(2)(b)**
- F301** Words in reg. 7(2) substituted (5.5.2003) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1050\)](#), regs. 1(1)(a), **3(5)(b)** (with reg. 6)
- F302** Words in reg. 7(2) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(5)(a)**
- F303** Reg. 7(2)(a) substituted (29.11.1999) by [The Social Security Act 1998 \(Commencement No. 12 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/3178\)](#), art. 3(1)(a), **Sch. 19 para. 1(b)(i)** (with art. 3(1)(b), Schs. 21-23)
- F304** Words in reg. 7(2)(b)(i)(ii) substituted (7.4.2003) by [State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(a), **18(b)**
- F305** Words in reg. 7(2)(b)(i) substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **33(3)(a)**
- F306** Reg. 7(2)(bb) substituted (30.10.2008) by [Social Security \(Miscellaneous Amendments\) \(No.5\) Regulations 2008 \(S.I. 2008/2667\)](#), regs. 1, **3(4)(b)**
- F307** Reg. 7(2)(bc) substituted (30.10.2008) by [Social Security \(Miscellaneous Amendments\) \(No.5\) Regulations 2008 \(S.I. 2008/2667\)](#), regs. 1, **3(4)(c)**
- F308** Words in reg. 7(2)(bc) inserted (19.11.2023) by [The Carer's Assistance \(Carer Support Payment\) \(Scotland\) Regulations 2023 \(Consequential Amendments\) Order 2023 \(S.I. 2023/1218\)](#), arts. 1(2), **9(a)**
- F309** Reg. 7(2)(bd) omitted (19.5.2008) by virtue of [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2008 \(S.I. 2008/1042\)](#), regs. 1(2), **2(b)**
- F310** Reg. 7(2)(be) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **33(3)(b)**
- F311** Reg. 7(2)(c)(i) omitted (29.11.1999) by virtue of [The Social Security Act 1998 \(Commencement No. 12 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/3178\)](#), art. 3(1)(a), **Sch. 19 para. 1(b)(ii)** (with art. 3(1)(b), Schs. 21-23)

- F312** Reg. 7(2)(c)(ii)(iii) substituted for reg. 7(2)(c)(ii) (5.7.1999) by The Social Security and Child Support (Decisions and Appeals) Amendment (No. 2) Regulations 1999 (S.I. 1999/1623), regs. 1(1), **4**
- F313** Words in reg. 7(2)(c)(ii) inserted (13.7.2009) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2009 (S.I. 2009/1490), regs. 1, **3(3)**
- F314** Reg. 7(2)(c)(iii) omitted (10.4.2006) by virtue of Social Security (Miscellaneous Amendments) (No.2) Regulations 2006 (S.I. 2006/832), regs. 1(2), **5(3)(a)(i)**
- F315** Reg. 7(2)(c)(iv) Reg. 7(2)(c)(v) added (10.4.2006) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2006 (S.I. 2006/832), regs. 1(2), **5(3)(a)(ii)**
- F316** Reg. 7(2A) inserted (19.5.2008) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2008 (S.I. 2008/1042), regs. 1(2), **2(c)**
- F317** Reg. 7(2A) omitted (30.10.2008) by virtue of Social Security (Miscellaneous Amendments) (No.5) Regulations 2008 (S.I. 2008/2667), regs. 1, **3(4)(d)**
- F318** Reg. 7(2B) inserted (19.11.2023) by The Carer's Assistance (Carer Support Payment) (Scotland) Regulations 2023 (Consequential Amendments) Order 2023 (S.I. 2023/1218), arts. 1(2), **9(b)**
- F319** Reg. 7(3) substituted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **33(4)**
- F320** Reg. 7(5) substituted (19.6.2000) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2000 (S.I. 2000/1596), regs. 1(1), **17(c)**
- F321** Words in reg. 7(5) substituted (14.5.2012 retrospective to 3.11.2008 in accordance with reg. 1(2)) by The Social Security and Child Support (Supersession of Appeal Decisions) Regulations 2012 (S.I. 2012/1267), regs. 1, **4(5)(a)**
- F322** Word in reg. 7(5) inserted (5.5.2003) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1050), regs. 1(1)(a), **3(5)(c)** (with reg. 6)
- F323** Reg. 7(6A) inserted (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **2(5)(b)**
- F324** Reg. 7(7) substituted (10.4.2006) by Social Security (Miscellaneous Amendments) (No.2) Regulations 2006 (S.I. 2006/832), regs. 1(2), **5(3)(b)**
- F325** Words in reg. 7(7)(a) inserted (26.7.2021) by The Social Security (Scotland) Act 2018 (Disability Assistance for Children and Young People) (Consequential Modifications) Order 2021 (S.I. 2021/786), arts. 1(2), **6(5)**
- F326** Words in reg. 7(7)(a) substituted (21.3.2022) by The Social Security (Disability Assistance for Working Age People) (Consequential Amendments) Order 2022 (S.I. 2022/177), arts. 1(2), **6(5)**
- F327** Words in reg. 7(7)(b)(i) added (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **33(5)(a)**
- F328** Words in reg. 7(7)(b)(ii)(aa) inserted (1.4.2012) by The Social Security (Miscellaneous Amendments) Regulations 2012 (S.I. 2012/757), regs. 1(4), **17**
- F329** Words in reg. 7(7)(aa)(b)(ii) added (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **33(5)(b)**
- F330** Reg. 7(7A) inserted (6.4.2006) by Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005 (S.I. 2005/2677), regs. 1(1), **9(5)**
- F331** Words in reg. 7(7A) inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **18(6)**
- F332** Reg. 7(8) substituted (22.10.2012) by The Jobseekers Allowance (Sanctions) (Amendment) Regulations 2012 (S.I. 2012/2568), regs. 1(1), **6(4)(a)**
- F333** Reg. 7(8ZA) substituted (22.10.2012) by The Jobseekers Allowance (Sanctions) (Amendment) Regulations 2012 (S.I. 2012/2568), regs. 1(1), **6(4)(b)**
- F334** Reg. 7(8ZB) omitted (22.10.2012) by virtue of The Jobseekers Allowance (Sanctions) (Amendment) Regulations 2012 (S.I. 2012/2568), regs. 1(1), **6(4)(c)**
- F335** Reg. 7(8A) inserted (30.10.2008) by Social Security (Miscellaneous Amendments) (No.5) Regulations 2008 (S.I. 2008/2667), regs. 1, **3(4)(e)**

- F336** Reg. 7(9) substituted (17.2.2000) by The Social Security and Child Support (Decisions and Appeals) Amendment Regulations 2000 (S.I. 2000/119), regs. 1(1), **2**
- F337** Words in reg. 7(9) inserted (31.10.2011) by The Social Security (Disability Living Allowance, Attendance Allowance and Carers Allowance) (Miscellaneous Amendments) Regulations 2011 (S.I. 2011/2426), regs. 1, **2(a)**
- F338** Reg. 7(9)(a) substituted (5.5.2003) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1050), regs. 1(1)(a), **3(5)(d)** (with reg. 6)
- F339** Words in reg. 7(9)(b) substituted (30.10.2008) by Social Security (Miscellaneous Amendments) (No.5) Regulations 2008 (S.I. 2008/2667), regs. 1, **3(4)(f)**
- F340** Words in reg. 7(9)(c) substituted (30.10.2008) by Social Security (Miscellaneous Amendments) (No.5) Regulations 2008 (S.I. 2008/2667), regs. 1, **3(4)(f)**
- F341** Reg. 7(9A) inserted (31.10.2011) by The Social Security (Disability Living Allowance, Attendance Allowance and Carers Allowance) (Miscellaneous Amendments) Regulations 2011 (S.I. 2011/2426), regs. 1, **2(b)**
- F342** Reg. 7(12A)-(12G) inserted by S.I. 2017/725, Sch. 5 para. 11(3)(a) (as inserted) (6.4.2018) by The Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018 (S.I. 2018/307), regs. 1(2), **2(18)(e)**
- F343** Reg. 7(13)-(17G) omitted by S.I. 2017/725, Sch. 5 para. 11(3)(b) (as inserted) (6.4.2018) by virtue of The Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018 (S.I. 2018/307), regs. 1(2), **2(18)(e)**
- F344** Reg. 7(17H) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **33(7)**
- F345** Reg. 7(18)-(23) omitted by S.I. 2017/725, Sch. 5 para. 11(3)(b) (as inserted) (6.4.2018) by virtue of The Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018 (S.I. 2018/307), regs. 1(2), **2(18)(e)**
- F346** Reg. 7(25)(26) added (3.4.2000) by The Social Security (Work-focused Interviews) Regulations 2000 (S.I. 2000/897), reg. 1, **Sch. 6 para. 5** (with reg. 2(5))
- F347** Reg. 7(25) substituted (12.4.2004) by The Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003 (S.I. 2003/1886), regs. 1, **15(5)**
- F348** Words in reg. 7(25)(b) substituted (26.4.2004) by Social Security (Working Neighbourhoods) Regulations 2004 (S.I. 2004/959), regs. 1, **24(4)(a)**
- F349** Words in reg. 7(25)(b)(i) substituted (26.4.2004) by Social Security (Working Neighbourhoods) Regulations 2004 (S.I. 2004/959), regs. 1, **24(4)(b)**
- F350** Reg. 7(27) omitted (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of Welfare Reform Act 2009 (Section 26) (Consequential Amendments) Regulations 2010 (S.I. 2010/424), **reg. 4(5)**
- F351** Reg. 7(28) added (1.4.2002) by Social Security (Loss of Benefit) (Consequential Amendments) Regulations 2002 (S.I. 2002/490), regs. 1(1), **8(c)**
- F352** Words in reg. 7(28) inserted (1.4.2010) by The Social Security (Loss of Benefit) Amendment Regulations 2010 (S.I. 2010/1160), regs. 1, **3(4)**
- F353** Reg. 7(29) inserted (7.4.2003) by State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 (S.I. 2002/3019), regs. 1(2)(a), **18(f)**
- F354** Words in reg. 7(29) substituted (6.10.2003) by State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **5(3)(a)**
- F355** Reg. 7(29A)-(29C) added (6.10.2003) by State Pension Credit (Transitional and Miscellaneous Provisions) Amendment Regulations 2003 (S.I. 2003/2274), regs. 1, **5(3)(b)**
- F356** Reg. 7(30)-(33) added (5.5.2003) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2003 (S.I. 2003/1050), regs. 1(1)(a), **3(5)(e)** (with reg. 6)
- F357** Reg. 7(30A) inserted (6.4.2010) by Social Security (Miscellaneous Amendments) Regulations 2010 (S.I. 2010/510), regs. 1(2), **4(2)**
- F358** Words in reg. 7(31) omitted (30.10.2008) by virtue of Social Security (Miscellaneous Amendments) (No.5) Regulations 2008 (S.I. 2008/2667), regs. 1, **3(4)(g)**

- F359** Words in reg. 7(33) substituted (14.5.2012 retrospective to 3.11.2008 in accordance with reg. 1(2)) by The Social Security and Child Support (Supersession of Appeal Decisions) Regulations 2012 (S.I. 2012/1267), regs. 1, **4(5)(b)(i)**
- F360** Words in reg. 7(33) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 104(b)(ii)**
- F361** Words in reg. 7(33) inserted (14.5.2012 retrospective to 3.11.2008 in accordance with reg. 1(2)) by The Social Security and Child Support (Supersession of Appeal Decisions) Regulations 2012 (S.I. 2012/1267), regs. 1, **4(5)(b)(ii)**
- F362** Reg. 7(34) added (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **2(5)(d)**
- F363** Reg. 7(35) omitted (3.12.2012) by virtue of The Employment and Support Allowance (Sanctions) (Amendment) Regulations 2012 (S.I. 2012/2756), regs. 1(1), **8(2)** (with reg. 1(2))
- F364** Reg. 7(36) substituted (3.12.2012) by The Employment and Support Allowance (Sanctions) (Amendment) Regulations 2012 (S.I. 2012/2756), regs. 1(1), **8(3)** (with reg. 1(2))
- F365** Reg. 7(38) substituted (28.6.2010) by Social Security (Miscellaneous Amendments) (No.3) Regulations 2010 (S.I. 2010/840), regs. 1, **7(4)(a)**
- F366** Words in reg. 7(38) substituted (30.3.2015) by The Jobseeker s Allowance (Extended Period of Sickness) Amendment Regulations 2015 (S.I. 2015/339), regs. 1, **7(3)**
- F367** Reg. 7(40) added (28.6.2010) by Social Security (Miscellaneous Amendments) (No.3) Regulations 2010 (S.I. 2010/840), regs. 1, **7(4)(b)**
- F368** Reg. 7(41)(42) added (28.4.2014) by The Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014 (S.I. 2014/1097), regs. 1(1), **12(5)**
- F369** Reg. 7(43) inserted (1.1.2017) (E+W+S) by The Social Security (Credits, and Crediting and Treatment of Contributions) (Consequential and Miscellaneous Amendments) Regulations 2016 (S.I. 2016/1145), regs. 1, **4(5)**

#### Marginal Citations

**M15** S.I. 1995/311; relevant amending instruments are S.I. 1995/987, S.I. 1996/3207 and S.I. 1997/1009.

#### [<sup>F370</sup>[<sup>F371</sup> **Definitions for the purposes of Chapters I and II]**

- 7A.**—(1) For the purposes of regulations 3(5)(c), 6(2)(g)[<sup>F372</sup>, 6(2)(r)][<sup>F373</sup>, 7(2)(c) and (5)]—
- “disability benefit decision” means a decision to award a relevant benefit embodied in or necessary to which is a disability determination,
- “disability determination” means—
- in the case of a decision as to an award of an attendance allowance or a disability living allowance, whether the person satisfies any of the conditions in section 64, 72(1) or 73(1) to (3), as the case may be, of the Contributions and Benefits Act,
  - in the case of a decision as to an award of severe disablement allowance, whether the person is disabled for the purpose of section 68 of the Contributions and Benefits Act, or
  - in the case of a decision as to an award of industrial injuries benefit, whether the existence or extent of any disablement is sufficient for the purposes of section 103 or 108 of the Contributions and Benefits Act or for the benefit to be paid at the rate which was in payment immediately prior to that decision;
- [<sup>F374</sup> “employment and support allowance decision” means a decision to award a relevant benefit or relevant credit embodied in or necessary to which is a determination that a person has or is to be treated as having limited capability for work under Part 1 of the Welfare Reform Act ; ]



“incapacity benefit decision” means a decision to award a relevant benefit [<sup>F375</sup>or relevant credit] embodied in or necessary to which is a determination that a person is or is to be treated as incapable of work under Part XIIA of the Contributions and Benefits Act, [<sup>F376</sup>or an award of long term incapacity benefit under regulation 17(1) (transitional awards of long-term incapacity benefit) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995]

“incapacity determination” means a determination whether a person is incapable of work by applying the [<sup>F377</sup>personal capability assessment ] in regulation 24 of the Social Security (Incapacity for Work) (General) Regulations 1995 or whether a person is to be treated as incapable of work in accordance with regulation 10 (certain persons with a severe condition to be treated as incapable of work) or 27 (exceptional circumstances) of those Regulations, and

[<sup>F378</sup> “limited capability for work determination” means a determination whether a person has limited capability for work by applying the test of limited capability for work or whether a person is to be treated as having limited capability for work in accordance with regulation 20 of the Employment and Support Allowance Regulations ; ]

“payee” means a person to whom a benefit referred to in paragraph (a), (b) or (c) of the definition of “disability determination”, or a benefit referred to in the definition of “incapacity benefit decision” [<sup>F379</sup>or “employment and support allowance decision”] is payable.

(2) Where a person’s receipt of or entitlement to a benefit (“the first benefit”) is a condition of his being entitled to any other benefit, allowance or advantage (“a second benefit”) and a decision is revised under regulation 3(5)(c) or a superseding decision is made under regulation 6(2) to which regulation 7(2)(c)(ii) applies, the effect of which is that the first benefit ceases to be payable, or becomes payable at a lower rate than was in payment immediately prior to that revision or supersession, a consequent decision as to his entitlement to the second benefit shall take effect from the date of the change in his entitlement to the first benefit.]

#### Textual Amendments

- F370** Reg. 7A inserted (5.7.1999) by [The Social Security and Child Support \(Decisions and Appeals\) Amendment \(No. 2\) Regulations 1999 \(S.I. 1999/1623\)](#), regs. 1(1), **5**
- F371** Reg. 7A heading substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **34(2)**
- F372** Words in reg. 7A(1) inserted (28.6.2010) by [Social Security \(Miscellaneous Amendments\) \(No.3\) Regulations 2010 \(S.I. 2010/840\)](#), regs. 1, **7(5)**
- F373** Words in reg. 7A(1) substituted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#), regs. 1(1), **18(a)**
- F374** Words in reg. 7A(1) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **34(3)(a)**
- F375** Words in reg. 7A inserted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#), regs. 1(1), **18(b)**
- F376** Words in reg. 7A(1) added (24.9.2007) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2007 \(S.I. 2007/2470\)](#), regs. 1, **3(8)**
- F377** Words in reg. 7A substituted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#), regs. 1(1), **18(c)**
- F378** Words in reg. 7A(1) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **34(3)(b)**
- F379** Words in reg. 7A(1) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **34(3)(c)**

**[<sup>F380</sup>Effective date of a supersession decision][<sup>F380</sup><sup>F381</sup>Date from which a decision superseded under section 17 of the Child Support Act takes effect ]**

[<sup>F380</sup>Schedule 3D provides for cases and circumstances in which a supersession decision takes effect from a date other than the date specified in section 17(4) of the Child Support Act.]

**Textual Amendments**

- F380** Reg. 7B substituted (6.4.2009) by [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(6)** (with reg. 7)
- F381** Reg. 7B - Reg. 7C inserted (3.3.2003 for specified purposes and ) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **9** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F382** Reg. 7B omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**
- F383** Reg. 7B(1A) inserted (30.4.2002) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1204\)](#) , **regs. 1(3), 2(4)(a)**
- F384** Words in reg. 7B(9)(a) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 105(a)(i)**
- F385** Words in reg. 7B(9) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 105(a)(ii)**
- F386** Words in reg. 7B(9) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 105(a)(iii)**
- F387** Regs. 7B(11)-(16) omitted (27.10.2008) by virtue of [Child Support \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/2543\)](#), regs. 1, **4(4)(a)**
- F388** Reg. 7B(17A)-(17C) inserted (3.3.2003 for specified purposes being the date on which 2000 c. 19, s. 9 comes into force for those purposes by virtue of S.I. 2003/192, **art. 3**) by [The Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/328\)](#), regs. 1(3)(b), 3(2)
- F389** Reg. 7B(19) omitted (30.4.2002) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1204\)](#), **regs. 1(3), 2(4)(b)**
- F390** Words in reg. 7B(21)(a) omitted (27.10.2008) by virtue of [Child Support \(Consequential Provisions\) Regulations 2008 \(S.I. 2008/2543\)](#), regs. 1, **4(4)(b)**
- F391** Reg. 7B(22A) inserted (3.3.2003 for specified purposes being the date on which 2000 c. 19, s. 9 comes into force for those purposes by virtue of S.I. 2003/192, art. 3, 5.5.2003 in so far as not already in force) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2003 \(S.I. 2003/1050\)](#) , regs. 1(1)(b) , **3(6)** (with reg. 6 )
- F392** Words in reg. 7B(22A) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 105(b)(i)**
- F393** Words in reg. 7B(22A) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 105(b)(ii)**

**Procedure where the Secretary of State proposes to supersede a decision under section 17 of the Child Support Act on his own initiative**

7C. [<sup>F394</sup>Where the [<sup>F395</sup>Secretary of State] on [<sup>F395</sup>the Secretary of State's] own initiative proposes to make a decision superseding a decision [<sup>F395</sup>the Secretary of State] shall notify the relevant persons who could be materially affected by the decision of that intention.]]

### Textual Amendments

- F381** Reg. 7B - Reg. 7C inserted (3.3.2003 for specified purposes and ) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **9** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F394** Reg. 7C omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**
- F395** Words in reg. 7C substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(6)**

### Effective date for late notifications of change of circumstances

**8.—(1)** For the purposes of regulation 7(2) [<sup>F396</sup>and (9)], a longer period of time may be allowed for the notification of a change of circumstances in so far as it affects the effective date of the change where the conditions specified in the following provisions of this regulation are satisfied.

(2) An application for the purposes of regulation 7(2) [<sup>F397</sup>or (9)] shall be made by the claimant or a person acting on his behalf.

(3) The application referred to in paragraph (2) shall—

(a) contain particulars of the relevant change of circumstances and the reasons for the failure to notify the change of circumstances on an earlier date; and

[<sup>F398</sup>(b) be made—

(i) within 13 months of the date the change occurred; or

(ii) in the case of an application for the purposes of regulation 7(9)(b), within 13 months of the date on which the claimant satisfied the conditions of entitlement to the particular rate of benefit.]

(4) An application under this regulation shall not be granted unless the Secretary of State is satisfied [<sup>F399</sup>or the Board are satisfied] that—

(a) it is reasonable to grant the application;

(b) the change of circumstances notified by the applicant is relevant to the decision which is to be superseded; and

(c) special circumstances are relevant to the application and as a result of those special circumstances it was not practicable for the applicant to notify the change of circumstances within one month of the change occurring.

(5) In determining whether it is reasonable to grant the application, the Secretary of State [<sup>F400</sup>or the Board] shall have regard to the principle that the greater the amount of time that has elapsed between the date one month after the change of circumstances occurred and the date the application for the purposes of regulation 7(2) [<sup>F401</sup>or (9)] is made, the more compelling should be the special circumstances on which the application is based.

(6) In determining whether it is reasonable to grant an application, no account shall be taken of the following—

(a) that the applicant or any person acting for him was unaware of, or misunderstood, the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or

(b) that [<sup>F402</sup>the Upper Tribunal] or a court has taken a different view of the law from that previously understood and applied.

(7) An application under this regulation which has been refused may not be renewed.

#### Textual Amendments

- F396** Words in reg. 8(1) inserted (17.2.2000) by [The Social Security and Child Support \(Decisions and Appeals\) Amendment Regulations 2000 \(S.I. 2000/119\)](#), regs. 1(1), **3(a)**
- F397** Words in reg. 8(2) inserted (17.2.2000) by [The Social Security and Child Support \(Decisions and Appeals\) Amendment Regulations 2000 \(S.I. 2000/119\)](#), regs. 1(1), **3(b)**
- F398** Reg. 8(3)(b) substituted (6.4.2010) by [Social Security \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/510\)](#), regs. 1(2), **4(3)**
- F399** Words in reg. 8(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **11(a)**
- F400** Words in reg. 8(5) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **11(b)**
- F401** Words in reg. 8(5) inserted (17.2.2000) by [The Social Security and Child Support \(Decisions and Appeals\) Amendment Regulations 2000 \(S.I. 2000/119\)](#), regs. 1(1), **3(b)**
- F402** Words in reg. 8(6)(b) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 106**

## CHAPTER III

### OTHER MATTERS

#### Certificates of recoverable benefits

**9.** A certificate of recoverable benefits may be reviewed under section 10 of the 1997 Act <sup>M16</sup> where the Secretary of State is satisfied that—

- (a) a mistake (whether in computation of the amount specified or otherwise) occurred in the preparation of the certificate;
- (b) the benefit recovered from a person who makes a compensation payment (as defined in section 1 of the 1997 Act) is in excess of the amount due to the Secretary of State;
- (c) incorrect or insufficient information was supplied to the Secretary of State by the person who applied for the certificate and in consequence the amount of benefit specified in the certificate was less than it would have been had the information supplied been correct or sufficient; or
- (d) a ground for appeal is satisfied under section 11 of the 1997 Act <sup>M17</sup>.

#### Marginal Citations

**M16** Section 10 was amended by paragraph 149 of Schedule 7 to the Social Security Act 1998.

**M17** Section 11 was amended by paragraph 150 of Schedule 7 to the Social Security Act 1998.

#### [<sup>F403</sup>Review of certificates

**9ZA.—**(1) A certificate may be reviewed under section 10 of the 1997 Act where the Secretary of State is satisfied that—

- (a) a mistake (whether in the computation of the amount specified or otherwise) occurred in the preparation of the certificate;

- (b) the lump sum payment recovered from a compensator who makes a compensation payment (as defined in section 1A(5) of the 1997 Act) is in excess of the amount due to the Secretary of State;
  - (c) incorrect or insufficient information was supplied to the Secretary of State by the compensator who applied for the certificate and in consequence the amount of lump sum payment specified in the certificate was less than it would have been had the information supplied been correct or sufficient;
  - (d) a ground for appeal is satisfied under section 11 of the 1997 Act or an appeal has been made under that section; or
  - (e) a certificate has been issued and, for any reason, a recoverable lump sum payment was not included in that certificate.
- (2) In this regulation and regulations 1(3) in paragraph (b) of the definition of “party to the proceedings”, [F40429 [F405 and 33]], where applicable—
- (a) any reference to the 1997 Act is to be construed so as to include a reference to that Act as applied by regulation 2 of the Lump Sum Payments Regulations and, where applicable, as modified by Schedule 1 to those Regulations;
  - (b) “certificate” means a certificate of recoverable lump sum payments, including where any of the amounts is nil;
  - (c) “lump sum payment” is a payment to which section 1A(2) of the 1997 Act applies;
  - (d) “P” is to be construed in accordance with regulations 4(1)(a)(i) and 5 of the Lump Sum Payments Regulations. ]

#### Textual Amendments

- F403** Reg. 9ZA inserted (1.10.2008 as amended by S.I. 2008/2365 reg. 6(4)) by [Social Security \(Recovery of Benefits\) \(Lump Sum Payments\) Regulations 2008 \(S.I. 2008/1596\)](#), reg. 1(1), **Sch. 2 para. 1(b)** (with reg. 6)(as amended by S.I. 2008/2365 reg. 6(4))
- F404** Words in reg. 9ZA(2) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 107**
- F405** Words in reg. 9ZA(2) omitted (28.10.2013) by virtue of [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(10)(a)** (with reg. 8)

#### [F406] Consideration of review before appeal

- 9ZB.**—(1) This regulation applies in a case where—
- (a) the Secretary of State has issued a certificate of recoverable benefits or certificate of recoverable lump sum payments; and
  - (b) that certificate is accompanied by a notice to the effect that there is a right of appeal in relation to the certificate only if the Secretary of State has considered an application for review of the certificate.
- (2) In a case to which this regulation applies, a person has a right of appeal under section 11 of the 1997 Act against the certificate only if the Secretary of State has considered an application for review of the certificate under section 10 of that Act.]

#### Textual Amendments

**F406** Reg. 9ZB inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(6)**

#### [<sup>F407</sup> Correction of accidental errors

**9A.**—(1) Accidental errors in a decision of the Secretary of State or an officer of the Board under a relevant enactment within the meaning of section 28(3), or in any record of such a decision, may be corrected by the Secretary of State or an officer of the Board, as the case may be, at any time.

(2) A correction made to, or to the record of, a decision shall be deemed to be part of the decision, or of that record, and the Secretary of State or an officer of the Board shall give a written notice of the correction as soon as practicable to the claimant.

(3) In calculating the time within which an application can be made under regulation 3(1)(b) for a decision to be revised <sup>F408</sup> ... there shall be disregarded any day falling before the day on which notice was given of a correction of the decision or to the record thereof under paragraph (2).]

#### Textual Amendments

**F407** Reg. 9A inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **4**

**F408** Words in reg. 9A(3) omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 108**

#### [<sup>F409</sup> Effect of determination as to capacity or capability for work

**10.**—(1) This regulation applies to a determination whether a person—

- (a) is capable or incapable of work;
- (b) is to be treated as capable or incapable of work;
- (c) has or does not have limited capability for work; or
- (d) is to be treated as having or not having limited capability for work.

(2) A determination (including a determination made following a change of circumstances) as set out in paragraph (1) which is embodied in or necessary to a decision under Chapter II of Part I of the Act or on which such a decision is based shall be conclusive for the purposes of any further decision.]

#### Textual Amendments

**F409** Reg. 10 substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **36**

#### Secretary of State to determine certain matters

**11.** Where, in relation to a determination for any purpose to which Part XIIA of the Contributions and Benefits Act [<sup>F410</sup> or Part 1 of the Welfare Reform Act] applies, an issue arises as to—

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

[<sup>F411</sup>(aa) whether a person is, or is to be treated as, having or not having limited capability for work; or]

(b) whether a person is terminally ill,

that issue shall be determined by the Secretary of State, notwithstanding that other matters fall to be determined by another authority.

#### Textual Amendments

**F410** Words in reg. 11 inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **37(a)**

**F411** Reg. 11(aa) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **37(b)**

#### [<sup>F412</sup>Issues for decision by officers of Inland Revenue

**11A.**—(1) Where, on consideration of any claim or other matter, it appears to the Secretary of State that an issue arises which, by virtue of section 8 of the Transfer Act, falls to be decided by an officer of the Board, he shall refer that issue to the Board.

(2) Where—

- (a) the Secretary of State has decided any claim or other matter on an assumption of facts—
  - (i) as to which there appeared to him to be no dispute, but
  - (ii) concerning which, had an issue arisen, that issue would have fallen, by virtue of section 8 of the Transfer Act, to be decided by an officer of the Board; and
- (b) an application for revision or an application for supersession [<sup>F413</sup>or an appeal] is made in relation to the decision of that claim or other matter; and
- (c) it appears to the Secretary of State on [<sup>F414</sup>receipt of the application or appeal] that such an issue arises,

he shall refer that issue to the Board.

(3) Pending the final decision of any issue which has been referred to the Board in accordance with paragraph (1) or (2) above, the Secretary of State may—

- (a) determine any other issue arising on consideration of the claim or other matter or, as the case may be, of the application,
- (b) seek a preliminary opinion of the Board on the issue referred and decide the claim or other matter or, as the case may be, the application in accordance with that opinion on that issue; or
- (c) defer making any decision on the claim or other matter or, as the case may be, the application.

(4) On receipt by the Secretary of State of the final decision of an issue which has been referred to the Board in accordance with paragraph (1) or (2) above, the Secretary of State shall—

- (a) in a case to which paragraph (3)(b) above applies—
  - (i) consider whether the decision ought to be revised under section 9 or superseded under section 10, and
  - (ii) if so, revise it, or, as the case may be, make a further decision which supersedes it; or
- (b) in a case to which paragraph (3)(a) or (c) above applies, decide the claim or other matter or, as the case may be, the application,

in accordance with the final decision of the issue so referred.

(5) In paragraphs (3) and (4) above “final decision” means the decision of an officer of the Board under section 8 of the Transfer Act or the determination of any appeal in relation to that decision.]

#### Textual Amendments

- F412** Reg. 11A inserted (5.7.1999) by [The Social Security and Child Support \(Decisions and Appeals\) Amendment \(No. 3\) Regulations 1999 \(S.I. 1999/1670\)](#), regs. 1(1), **2(3)**
- F413** Words in reg. 11A(2)(b) inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **5(a)**
- F414** Words in reg. 11A(2)(c) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **5(b)**

### Decision of the Secretary of State relating to industrial injuries benefit

**12.**—(1) This regulation applies where, for the purpose of a decision of the Secretary of State relating to a claim for industrial injuries benefit under Part V of the Contributions and Benefits Act an issue to be decided is—

- (a) the extent of a personal injury for the purposes of section 94 of that Act;
- (b) whether the claimant has a disease prescribed for the purposes of section 108 of that Act or the extent of any disablement resulting from such a disease; or
- (c) whether the claimant has a disablement for the purposes of section 103 of that Act or the extent of any such disablement.

(2) In connection with making a decision to which this regulation applies, the Secretary of State may refer an issue, together with any relevant evidence or information available to him, including any evidence or information provided by or on behalf of the claimant, to a [<sup>F415</sup>health care professional approved by the Secretary of State] who has experience in such of the issues specified in paragraph (1) as are relevant to the decision, for such report as appears to the Secretary of State to be necessary for the purpose of providing him with information for use in making the decision.

(3) In making a decision to which this regulation applies, the Secretary of State shall have regard to (among other factors)—

- (a) all relevant medical reports provided to him in connection with that decision; and
- (b) the experience, in such of the issues specified in paragraph (1) as are relevant to the decision, of any [<sup>F416</sup>health care professional] who has provided a report, including a [<sup>F416</sup>health care professional approved by the Secretary of State] who has provided a report following an examination required by the Secretary of State under section 19.

#### Textual Amendments

- F415** Words in reg. 12(2) substituted (3.7.2007) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2007 \(S.I. 2007/1626\)](#), regs. 1, **4(2)(a)**
- F416** Words in reg. 12(3)(b) substituted (3.7.2007) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2007 \(S.I. 2007/1626\)](#), regs. 1, **4(2)(b)**



### [<sup>F417</sup> **Recrudescence of a prescribed disease**

**12A.**—(1) This regulation applies to a decision made under sections 108 to 110 of the Contributions and Benefits Act where a disease is subsequently treated as a recrudescence under regulation 7 of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985.

(2) Where this regulation applies Chapter II of Part I of the Act shall apply as if section 8(2) did not apply.]

#### **Textual Amendments**

**F417** Reg. 12A inserted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#), regs. 1(1), **19**

### **Income support and social fund determinations on incomplete evidence**

**13.**—[<sup>F418</sup>(1) Where, for the purpose of a decision under section 8 (decisions by Secretary of State) or 10 (decisions superseding earlier decisions)—

- (a) a determination falls to be made by the Secretary of State in respect of a claimant of income support, state pension credit or employment and support allowance as to—
  - (i) the amount to be included in an owner-occupier loan payment under regulation 10 of the Loans for Mortgage Interest Regulations (calculation of each loan payment); or
  - (ii) what housing costs are to be included in the claimant's applicable amount (in the case of income support or employment and support allowance) or the claimant's appropriate minimum guarantee (in the case of state pension credit); and
- (b) it appears to the Secretary of State that the Secretary of State is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

the Secretary of State shall make the determination on the assumption that the amounts to be included in an owner-occupier loan payment, the claimant's applicable amount, or the claimant's appropriate minimum guarantee, as the case may be, are those that can be immediately determined.]

(2) Where, for the purpose of a decision under section 8 or 10—

- (a) a determination falls to be made by the Secretary of State as to whether—
  - (i) in relation to any person, the applicable amount falls to be reduced or disregarded to any extent by virtue of section 126(3) of the Contributions and Benefits Act (persons affected by trade disputes);
  - (ii) for the purposes of regulation 12 of the Income Support Regulations, a person is by virtue of that regulation to be treated as receiving relevant education; <sup>F419</sup> ...
  - (iii) in relation to any claimant, the applicable amount includes severe disability premium by virtue of regulation 17(1)(d) or 18(1)(e), and paragraph 13 of Schedule 2 to, the Income Support Regulations; [<sup>F420</sup> or
  - (iv) in relation to any claimant, the applicable amount includes the severe disability premium by virtue of regulation 67(1) or 68(1) of, and paragraph 6 of Schedule 4 to, the Employment and Support Allowance Regulations ; and]
- (b) it appears to the Secretary of State that he is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.

[<sup>F421</sup>(3) Where, for the purposes of a decision under section 8 or 10—

- (a) a determination falls to be made by the Secretary of State as to whether a claimant's appropriate minimum guarantee includes an additional amount in accordance with regulation 6(4) of, and paragraph 1 of Schedule I to, the State Pension Credit Regulations ; and
- (b) it appears to the Secretary of State that he is not in possession of all the evidence or information which is relevant for the purpose of such a determination,

he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.]

#### Textual Amendments

- F418** Reg. 13(1) substituted by S.I. 2017/725, Sch. 5 para. 11(4) (as inserted) (6.4.2018) by [The Loans for Mortgage Interest and Social Fund Maternity Grant \(Amendment\) Regulations 2018 \(S.I. 2018/307\)](#), regs. 1(2), **2(18)(e)**
- F419** Word in reg. 13(2)(a)(ii) omitted (27.7.2008) by virtue of [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **38(b)(i)**
- F420** Reg. 13(2)(a)(iv) and word substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **38(b)(ii)**
- F421** Reg. 13(3) added (7.4.2003) by [State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(a), **19(b)**

#### [<sup>F422</sup>Retirement pension after period of deferment

**13A.**—(1) This regulation applies where—

- (a) a person claims a Category A or Category B retirement pension, shared additional pension or, as the case may be, graduated retirement benefit;
- (b) an election is required by, as the case may be—
  - (i) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act (pension increase or lump sum where entitlement to retirement pension is deferred);
  - (ii) paragraph 1 of Schedule 5A to that Act (pension increase or lump sum where entitlement to shared additional pension is deferred); or, as the case may be,
  - (iii) paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations (further provisions replacing section 36(4) of the National Insurance Act 1965: increases of graduated retirement benefit and lump sums); and
- (c) no election is made when the claim is made.

(2) In the circumstances specified in paragraph (1) the Secretary of State may decide the claim before any election is made, or is treated as made, for an increase or lump sum.

(3) When an election is made, or is treated as made, the Secretary of State shall revise the decision which he made in pursuance of paragraph (2).]

#### Textual Amendments

- F422** Reg. 13A inserted (6.4.2006) by [Social Security \(Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit\) \(Miscellaneous Provisions\) Regulations 2005 \(S.I. 2005/2677\)](#), regs. 1(1), **9(6)**

[<sup>F423</sup> **State pension under Part 1 of the Pensions Act 2014 after period of deferment**

**13B.**—(1) This regulation applies where—

- (a) a person claims a state pension under Part 1 of the Pensions Act 2014;
  - (b) the person may make a choice under—
    - (i) section 8(2) of the Pensions Act 2014; or
    - (ii) Regulations made under section 10 of that Act which make provision corresponding or similar to section 8(2); and
  - (c) the person does not make such a choice when the claim is made.
- (2) The Secretary of State may decide the claim before paragraph (4) applies.
- (3) The Secretary of State may revise a decision under paragraph (2) where paragraph (4) applies.
- (4) This paragraph applies where the person—
- (a) makes a choice mentioned in paragraph (1)(b); or
  - (b) becomes entitled to a lump sum under section 8(4) of the Pensions Act 2014, or under Regulations made under section 10 of that Act which make provision corresponding or similar to section 8(4), because the person has failed to choose within the period mentioned in section 8(3).]

**Textual Amendments**

**F423** Reg. 13B inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), [18\(7\)](#)

**Effect of alteration in the component rates of income support and jobseeker's allowance**

**14.**—(1) Section 159 of the Administration Act (effect of alteration in the component rates of income support) shall not apply to any award of income support in force in favour of a person where there is applicable to that person—

- (a) any amount determined in accordance with regulation 17(2) to (7) of the Income Support Regulations; or
- (b) any protected sum determined in accordance with Schedule 3A or 3B of those Regulations <sup>M18</sup>; or
- (c) any transitional addition, personal expenses addition or special transitional addition applicable under Part II of the Income Support (Transitional) Regulations 1987 <sup>M19</sup> (transitional protection).

(2) Where section 159 of the Administration Act does not apply to an award of income support by virtue of paragraph (1), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made by an order under section 150 of the Administration Act.

(3) Section 159A of the Administration Act <sup>M20</sup> (effect of alterations in the component rates of jobseeker's allowance) shall not apply to any award of a jobseeker's allowance in force in favour of a person where there is applicable to that person any amount determined in accordance with regulation 87 of the Jobseeker's Allowance Regulations.

(4) Where section 159A of the Administration Act does not apply to an award of a jobseeker's allowance by virtue of paragraph (3), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made by an order under section 150 of the Administration Act.

<sup>F424</sup>(5) Section 159B of the Administration Act (effect of alterations affecting state pension credit) shall not apply to any award of state pension credit in favour of a person where in relation to that person the appropriate minimum guarantee includes an amount determined under paragraph 6 of Part III of Schedule I to the State Pension Credit Regulations .

(6) Where section 159B of the Administration Act does not apply to an award of state pension credit by virtue of paragraph (5), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made to an award under section 150 of the Administration Act.]

#### Textual Amendments

**F424** Reg. 14(5)(6) added (7.4.2003) by [State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(a), **20**

#### Marginal Citations

**M18** Schedule 3A was inserted by [S.I. 1988/1445](#); Schedule 3B was inserted by [S.I. 1989/534](#).

**M19** [S.I. 1987/1969](#).

**M20** Section 159A was inserted by section 24 of the [Jobseekers Act 1995 \(c.18\)](#).

### <sup>F425</sup>Termination of award of income support<sup>F426</sup>, jobseeker's allowance or employment and support allowance]

**14A.**—(1) This regulation applies in a case where an award of income support<sup>F427</sup>, a jobseeker's allowance or an employment and support allowance] (“the existing benefit”) exists in favour of a person and, if that award did not exist and a claim was made by that person or his partner for <sup>F428</sup>an employment and support allowance,] a jobseeker's allowance or, as the case may be, income support (“the alternative benefit”), an award of the alternative benefit would be made on that claim.

(2) In a case to which this regulation applies, if a claim for the alternative benefit is made the Secretary of State may bring to an end the award of the existing benefit if he is satisfied that an award of the alternative benefit will be made on that claim.

(3) Where, under paragraph (2), the Secretary of State brings an award of the existing benefit to an end he shall do so with effect from the day immediately preceding the first day on which an award of the alternative benefit takes effect.

(4) Where an award of a jobseeker's allowance is made in accordance with the provisions of this regulation, paragraph 4 of Schedule 1 to the Jobseekers Act (waiting days) shall not apply.]

<sup>F429</sup>(5) Where an award of an employment and support allowance is made in accordance with the provisions of this regulation, paragraph 2 of Schedule 2 to the Welfare Reform Act (waiting days) shall not apply. ]

#### Textual Amendments

**F425** Reg. 14A inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **6**

**F426** Words in reg. 14A heading substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **39(2)**

**F427** Words in reg. 14A(1) substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **39(3)(a)**

**F428** Words in reg. 14A(1) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **39(3)(b)**

**F429** Reg. 14A(5) added (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **39(4)**

### **Jobseeker's allowance determinations on incomplete evidence**

- 15.** Where, for the purpose of a decision under section 8 or 10—
- (a) a determination falls to be made by the Secretary of State as to whether—
    - (i) in relation to any person, the applicable amount falls to be reduced or disregarded to any extent by virtue of section 15 of the Jobseekers Act (persons affected by trade disputes); or
    - (ii) for the purposes of regulation 54(2) to (4) of the Jobseeker's Allowance Regulations (relevant education), a person is by virtue of that regulation, to be treated as receiving relevant education; and
  - (b) it appears to the Secretary of State that he is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.

### **[<sup>F430</sup> Provision of information**

**15A.**—[<sup>F431</sup>(1) Where the [<sup>F432</sup>Secretary of State] has received an application under section 16 or 17 of the Child Support Act in connection with a previously determined variation which has effect on the maintenance calculation in force, [<sup>F432</sup>the Secretary of State] may request further information or evidence from the applicant to enable a decision on that application to be made and any such information or evidence shall be provided within one month of the date of notification of the request, or such longer period as the [<sup>F432</sup>Secretary of State] is satisfied is reasonable in the circumstances of the case.

(2) Where any information or evidence requested in accordance with paragraph (1) is not provided within the time limit specified in that paragraph, the [<sup>F432</sup>Secretary of State] may, where [<sup>F432</sup>the Secretary of State] is able to do so, proceed to make the decision in the absence of that information or evidence.]

#### **Textual Amendments**

- F430** Regs. 15A-15D inserted (3.3.2003 for specified purposes and with effect in accordance with reg. 1(1) (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **10** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F431** Reg. 15A omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**
- F432** Words in reg. 15A substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(7)**

### **Procedure in relation to an application made under section 16 or 17 of the Child Support Act in connection with a previously determined variation**

**15B.**—[<sup>F433</sup>(1) Subject to paragraph (3), where the [<sup>F434</sup>Secretary of State] has received an application under section 16 or 17 of the Child Support Act in connection with a previously

determined variation which has effect on the maintenance calculation in force, [F434the Secretary of State]—

- (a) shall give notice of the application to the relevant persons, other than the applicant, informing them of the grounds on which the application has been made and any relevant information or evidence the applicant has given, except information or evidence falling within paragraph (2);
  - (b) may invite representations, which need not be in writing but shall be in writing if in any case [F434the Secretary of State] so directs, from the relevant persons other than the applicant on any matter relating to that application, to be submitted to the [F434Secretary of State] within 14 days of notification or such longer period as the [F434Secretary of State] is satisfied is reasonable in the circumstances of the case; and
  - (c) shall set out the provisions of paragraphs (2)(b) and (c), (4) and (5) in relation to such representations.
- (2) The information or evidence referred to in paragraphs (1)(a), (4)(a) and (7), is—
- (a) details of the nature of the long-term illness or disability of the relevant other child which forms the basis of a variation application on the ground in regulation 11 of the Variations Regulations (special expenses — illness or disability of relevant other child) where the applicant requests they should not be disclosed and the [F435Secretary of State] is satisfied that disclosure is not necessary in order to be able to determine the application;
  - (b) medical evidence or medical advice which has not been disclosed to the applicant or a relevant person and which the [F435Secretary of State] considers would be harmful to the health of the applicant or that relevant person if disclosed to him;
  - (c) the address of a relevant person or qualifying child, or any other information which could reasonably be expected to lead to that person or child being located, where the [F435Secretary of State] considers that there would be a risk of harm or undue distress to that person or that child or any other children living with that person if the address or information were disclosed.
- (3) The [F436Secretary of State] need not act in accordance with paragraph (1) if—
- (a) [F437satisfied on the information or evidence available that a variation of the maintenance calculation in force will not be agreed], but if, on further consideration [F438the Secretary of State] is minded to do so [F438the Secretary of State] shall, before doing so, comply with the provisions of this regulation; and
  - (b) were the application to succeed, the decision as revised or superseded would be less advantageous to the applicant than the decision before it was so revised or superseded.
- (4) Where the [F439Secretary of State] receives representations from the relevant persons [F440the Secretary of State]—
- (a) may, if [F441the Secretary of State] considers it reasonable to do so, send a copy of the representations concerned (excluding material falling within paragraph (2) above) to the applicant and invite any comments [F442to be provided] within 14 days or such longer period as the [F439Secretary of State] is satisfied is reasonable in the circumstances of the case; and
  - (b) where the [F439Secretary of State] acts under sub-paragraph (a), shall not proceed to make a decision in response to the application until [F443the Secretary of State] has received such comments or the period referred to in sub-paragraph (a) has expired.
- (5) Where the [F444Secretary of State] has not received representations from the relevant persons notified in accordance with paragraph (1) within the time limit specified in sub-paragraph (b) of that

paragraph, [F444the Secretary of State] may proceed to make a decision under section 16 or 17 of the Child Support Act in response to the application, in their absence.

(6) In considering an application for a revision or supersession the [F444Secretary of State] shall take into account any representations received at the date upon which [F444the Secretary of State] makes a decision under section 16 or 17 of the Child Support Act, from the relevant persons including any representations received in connection with the application in accordance with paragraphs (1) (b), (4)(a) and (7).

(7) Where any information or evidence requested by the [F445Secretary of State] under regulation 15A is received after notification has been given under paragraph (1), [F445the Secretary of State] may, if [F445the Secretary of State] considers it reasonable to do so and except where such information or evidence falls within paragraph (2), send a copy of such information or evidence to the relevant persons and may invite them to submit representations, which need not be in writing unless the [F445Secretary of State] so directs in any particular case, on that information or evidence.

(8) Where the [F446Secretary of State] is considering making a decision under section 16 or 17 of the Child Support Act in accordance with this regulation, [F446the Secretary of State] shall apply the factors to be taken into account for the purposes of section 28F of the Child Support Act set out in regulation 21 of the Variations Regulations (factors to be taken into account and not to be taken into account) as factors to be taken into account and not to be taken into account when considering making a decision under this regulation.

(9) In this regulation “relevant person” means—

- (a) a non-resident parent, or a person treated as a non-resident parent under regulation 8 of the Maintenance Calculations and Special Cases Regulations (persons treated as non-resident parents), whose liability to pay child support maintenance may be affected by any variation agreed;
- (b) a person with care, or a child to whom section 7 of the Child Support Act applies, where the amount of child support maintenance payable by virtue of a calculation relevant to that person with care or in respect of that child may be affected by any variation agreed.]

#### Textual Amendments

**F430** Regs. 15A-15D inserted (3.3.2003 for specified purposes and with effect in accordance with reg. 1(1) (2) of the amending S.I.) by **The Child Support (Decisions and Appeals) (Amendment) Regulations 2000 (S.I. 2000/3185), reg. 1(1)(2), 10** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)

**F433** Reg. 15B omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of **The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations 2012 (S.I. 2012/2785), regs. 1(4), 6(3)**

**F434** Words in reg. 15B(1) substituted (1.8.2012) by **The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), Sch. para. 113(8)(a)**

**F435** Words in reg. 15B(2) substituted (1.8.2012) by **The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), Sch. para. 113(8)(b)**

**F436** Words in reg. 15B(3) substituted (1.8.2012) by **The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), Sch. para. 113(8)(c)(i)**

**F437** Words in reg. 15B(3)(a) substituted (1.8.2012) by **The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), Sch. paras. 113(8)(c)(ii)(aa)**

- F438** Words in reg. 15B(3)(a) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. paras. 113\(8\)\(c\)\(ii\)\(bb\)](#)
- F439** Words in reg. 15B(4) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 113\(8\)\(d\)\(i\)](#)
- F440** Words in reg. 15B(4) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 113\(8\)\(d\)\(ii\)](#)
- F441** Words in reg. 15B(4)(a) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. paras. 113\(8\)\(d\)\(iii\)\(aa\)](#)
- F442** Words in reg. 15B(4)(a) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. paras. 113\(8\)\(d\)\(iii\)\(bb\)](#)
- F443** Words in reg. 15B(4)(b) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 113\(8\)\(d\)\(iv\)](#)
- F444** Words in reg. 15B(5)(6) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 113\(8\)\(e\)](#)
- F445** Words in reg. 15B(7) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 113\(8\)\(f\)](#)
- F446** Words in reg. 15B(8) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), [Sch. para. 113\(8\)\(g\)](#)

### Notification of a decision made under section 16 or 17 of the Child Support Act

**15C.**—<sup>[F447]</sup>(1) Subject to paragraphs (2) and (5) to (11), a notification of a decision made following the revision or supersession of a decision made under section 11, 12 or 17 of the Child Support Act, whether as originally made or as revised under section 16 of that Act, shall set out, in relation to the decision in question—

- (a) the effective date of the maintenance calculation;
- (b) where relevant, the non-resident parent's net weekly income;
- (c) the number of qualifying children;
- (d) the number of relevant other children;
- (e) the weekly rate;
- (f) the amounts calculated in accordance with Part I of Schedule 1 to the Child Support Act and, where there has been agreement to a variation or a variation has otherwise been taken into account, the Variations Regulations;
- (g) where the weekly rate is adjusted by apportionment or shared care or both, the amount calculated in accordance with paragraph 6, 7 or 8, as the case may be, of Part I of Schedule 1 to the Child Support Act; and
- (h) where the amount of child support maintenance which the non-resident parent is liable to pay is decreased in accordance with regulation 9 of the Maintenance Calculations and Special Cases Regulations (care provided in part by local authority) or 11 (non-resident parent liable to pay maintenance under a maintenance order) of those Regulations, the adjustment calculated in accordance with that regulation.



(2) A notification of a revision or supersession of a maintenance calculation made under section 12(1) of the Child Support Act shall set out the effective date of the maintenance calculation, the default rate, the number of qualifying children on which the rate is based and whether any apportionment has been applied under regulation 7 of the Maintenance Calculation Procedure Regulations (default rate) and shall state the nature of the information required to enable a decision under section 11 of that Act to be made by way of section 16 of that Act.

(3) Except where a person gives written permission to the [F448Secretary of State] that the information in relation to him, mentioned in sub-paragraphs (a) and (b), may be conveyed to other persons, any document given or sent under the provisions of paragraph (1) or (2) shall not contain—

- (a) the address of any person other than the recipient of the document in question (other than the address of the office of the officer concerned who is exercising functions of the [F448Secretary of State] under the Child Support Act) or any other information the use of which could reasonably be expected to lead to any such person being located;
- (b) any other information the use of which could reasonably be expected to lead to any person, other than a qualifying child or a relevant person, being identified.

(4) Where a decision as to the revision or supersession of a decision made under section 11, 12 or 17 of the Child Support Act, whether as originally made or as revised under section 16 of that Act, is made under section 16 or 17 of that Act, a notification under paragraph (1) or (2) shall include information as to the provisions of sections 16, 17 and 20 of that Act.

(5) Where the [F449Secretary of State] makes a decision that a maintenance calculation shall cease to have effect—

- (a) [F449the Secretary of State] shall immediately notify the non-resident parent and person with care, so far as that is reasonably practicable;
- (b) where a decision has been superseded in a case where a child under section 7 of the Child Support Act ceases to be a child for the purposes of that Act, [F449the Secretary of State] shall immediately notify the persons in sub-paragraph (a) and the other qualifying children within the meaning of section 7 of that Act; and
- (c) any notice under sub-paragraphs (a) and (b) shall specify the date with effect from which that decision took effect.

(6) [F450Where the [F451Commission], under the provisions of section 16 or 17 of the Child Support Act, has made a decision that an adjustment shall cease, or adjusted the amount payable under a maintenance calculation, [F451it] shall immediately notify the relevant persons, so far as that is reasonably practicable, that the adjustment has ceased or of the amount and period of the adjustment, and the amount payable during the period of the adjustment.]

(7) [F450Where the [F451Commission] has made a decision under section 16 of the Child Support Act, revising a decision under section 41A or 47 of that Act, [F451it] shall immediately notify the relevant persons so far as that is reasonably practicable, of the amount of child support maintenance payable, the amount of arrears, the amount of the penalty payment or fees to be paid, as the case may be, the method of payment and the day by which payment is to be made.]

(8) [F450Where the non-resident parent appeals against a decision made by the [F451Commission] under section 41A or 47 of the Child Support Act and the [F451Commission] makes a decision under section 16 of that Act, before the appeal is decided [F451it] shall notify the relevant persons, so far as that is reasonably practicable of either the new amount of the penalty payment or the fee to be paid or that the amount is no longer payable, the method of payment and the day by which payment is to be made.]

(9) Paragraphs (1) to (3) shall not apply where the <sup>F452</sup>Secretary of State] has decided not to supersede a decision under section 17 of the Child Support Act, and <sup>F452</sup>the Secretary of State] shall, so far as that is reasonably practicable, notify the relevant persons of that decision.

(10) A notification under paragraphs (6) to (9) shall include information as to the provisions of sections 16, 17 and 20 of the Child Support Act.

(11) Where paragraph (9) applies, and the <sup>F453</sup>Secretary of State] decides not to supersede under regulation 6B, <sup>F453</sup>the Secretary of State] shall notify the relevant person, in relation to the decision in question of—

- (a) the fact that regulation 6B applies to the decision;
- (b) the non-resident parent's net income figure fixed for the purposes of the maintenance calculation in force in accordance with Part I of Schedule 1 to the Child Support Act;
- (c) the non-resident parent's net income figure provided by that parent to the <sup>F453</sup>Secretary of State] with the application for supersession under regulation 6A(3);
- (d) the decision of the <sup>F453</sup>Secretary of State] not to supersede; and
- (e) the right to appeal against the decision under section 20 of the Child Support Act.

(12) Where an appeal lapses in accordance with section 16(6) or 28F(5) of the Child Support Act, the <sup>F454</sup>Secretary of State] shall, so far as that is reasonably practicable, notify the relevant persons that the appeal has lapsed.]

#### Textual Amendments

- F430** Regs. 15A-15D inserted (3.3.2003 for specified purposes and with effect in accordance with reg. 1(1) (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **10** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F447** Reg. 15C omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**
- F448** Words in reg. 15C(3) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(9)(a)**
- F449** Words in reg. 15C(5) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(9)(b)**
- F450** Regs. 15C(6)-(8) omitted (6.4.2009) by virtue of [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(10)(b)** (with reg. 7)
- F451** Words in reg. 15C substituted (6.4.2009) by [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(10)(a)** (with reg. 7)
- F452** Words in reg. 15C(9) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(9)(b)**
- F453** Words in reg. 15C(11) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(9)(b)**
- F454** Words in reg. 15C(12) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(9)(c)**

## Procedure in relation to the adjustment of the amount payable under a maintenance calculation

**15D.**—<sup>F455</sup>(1) Where the Secretary of State has adjusted the amount payable under a maintenance calculation under the provisions of regulation 10(1) and (3A) of the Arrears, Interest and Adjustment of Maintenance Assessments Regulations and that maintenance calculation is subsequently replaced by a fresh maintenance calculation made by virtue of a revision under section 16 of the Child Support Act or of a decision under section 17 of that Act superseding an earlier decision, that adjustment shall, subject to paragraph (2), continue to apply to the amount payable under that fresh maintenance calculation unless the Secretary of State is satisfied that such adjustment would not be appropriate in all the circumstances of the case.

(2) Where the Secretary of State is satisfied that the adjustment referred to in paragraph (1) would not be appropriate, he may make a decision under section 17 of the Child Support Act, superseding an earlier decision making an adjustment, and—

(a) the adjustment shall cease; or

(b) he may adjust the amount payable under that fresh maintenance calculation,

as he sees fit, having regard to the matters specified in regulation 10(1)(b)(i) to (iii) of the Arrears, Interest and Adjustment of Maintenance Assessments Regulations.]]

### Textual Amendments

**F430** Regs. 15A-15D inserted (3.3.2003 for specified purposes and with effect in accordance with reg. 1(1) (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **10** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)

**F455** Reg. 15D omitted (6.4.2009) by virtue of [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(11)** (with reg. 7)

## <sup>F88</sup> PART III

### SUSPENSION, TERMINATION AND OTHER MATTERS

#### CHAPTER I

#### SUSPENSION AND TERMINATION

### Modifications etc. (not altering text)

**C11** Pt. 3 Ch. 1 applied (5.10.1999) by [The Social Security Act 1998 \(Commencement No. 10 and Transitional Provisions\) Order 1999 \(S.I. 1999/2739\)](#), art. 3, **Sch. 2 para. 13**

## Suspension in prescribed cases

**16.**—(1) Subject to paragraph (2), the Secretary of State [<sup>F456</sup>or the Board] may suspend payment of a relevant benefit, in whole or in part, in the circumstances prescribed in paragraph (3).

(2) The Secretary of State shall suspend payment of a jobseeker's allowance in the circumstances prescribed in paragraph (3)(a)(i) or (ii) where the issue or one of the issues is whether a person, who has claimed a jobseeker's allowance, is or was available for employment or whether he is or was actively seeking employment.

(3) The prescribed circumstances are that—

- (a) it appears to the Secretary of State <sup>F457</sup>or the Board] that—
- (i) an issue arises whether the conditions for entitlement to a relevant benefit are or were fulfilled;
  - (ii) an issue arises whether a decision as to an award of a relevant benefit should be revised under section 9 or superseded under section 10;
  - (iii) an issue arises whether any amount paid or payable to a person by way of, or in connection with a claim for, a relevant benefit is recoverable under section 71 (overpayments), 71A (recovery of jobseeker’s allowance: severe hardship cases <sup>M21</sup>) or 74 (income support and other payments) of the Administration Act or regulations made under any of those sections; or
  - (iv) the last address notified to him <sup>F458</sup>or them] of a person who is in receipt of a relevant benefit is not the address at which that person is residing; or
- (b) an appeal is pending against—
- (i) a decision of <sup>F459</sup>the First-tier Tribunal, the Upper Tribunal] or a court;
  - (ii) a decision given in a different case by <sup>F460</sup>the Upper Tribunal] or a court, and it appears to the Secretary of State <sup>F461</sup>or the Board] that, if the appeal were to be determined in a particular way, an issue would arise as to whether the award of a relevant benefit (whether the same benefit or not) in the case itself ought to be revised or superseded.

<sup>F462</sup>(4) For the purposes of section 21(3)(c) an appeal is pending where a decision of <sup>F463</sup>the First-tier Tribunal, the Upper Tribunal] or a court has been made and the Secretary of State—

- (a) is awaiting receipt of that decision or (in the case of <sup>F464</sup>a decision of the First-tier Tribunal]) is considering whether to apply for a statement of the reasons for it, or has applied for such a statement and is awaiting receipt thereof; or
- (b) has received that decision or (in the case of <sup>F465</sup>a decision of the First-tier Tribunal]) the statement of the reasons for it, and is considering whether to apply for <sup>F466</sup>permission] to appeal, or, where leave to appeal has been granted, is considering whether to appeal;

and the Secretary of State shall give written notice of his proposal to make a request for a statement of the reasons for a tribunal decision, to apply for <sup>F466</sup>permission] to appeal, or to appeal, as soon as reasonably practicable.]

#### Textual Amendments

**F456** Words in reg. 16(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **12(2)**

**F457** Words in reg. 16(3)(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **12(3)(a)(i)**

**F458** Words in reg. 16(3)(a)(iv) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **12(3)(a)(ii)**

**F459** Words in reg. 16(3)(b)(i) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 109(2)(a)**

**F460** Words in reg. 16(3)(b)(ii) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 109(2)(b)**

- F461** Words in reg. 16(3)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **12(3)(b)**
- F462** Reg. 16(4) substituted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#), regs. 1(1), **20**
- F463** Words in reg. 16(4) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 109(3)(a)**
- F464** Words in reg. 16(4)(a) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 109(3)(b)**
- F465** Words in reg. 16(4)(b) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 109(3)(c)(i)**
- F466** Word in reg. 16(4)(b) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 109(3)(c)(ii)**

#### Marginal Citations

- M21** Section 71A was inserted by section 18 of the [Jobseekers Act 1995 \(c.18\)](#).

#### Provision of information or evidence

17.—<sup>F467</sup>(1) This regulation applies where the Board require information or evidence for a determination whether a decision awarding tax credit should be—

- (a) revised under section 9; or
- (b) superseded under section 10.

(2) The relevant person shall furnish such certificates, documents, information and evidence as may be required by the Board for the purposes of paragraph (1), and shall do so within one month of being required to do so or such longer period as the Board may consider reasonable.

(3) In paragraph (2) “the relevant person” means any of the following—

- (a) the claimant concerned;
- (b) where the tax credit could have been claimed by either of two partners or where entitlement to or the amount of the tax credit was affected or liable to be affected by the circumstances of either partner, the partner other than the claimant;
- (c) the employer of the claimant or, where sub-paragraph (b) applies, the employer of the partner other than the claimant.

(4) Where the claimant or any partner of the claimant is aged not less than 60 and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, the claimant shall, where the Board so require and within one month of being required to do so or such longer period as the Board may consider reasonable, furnish the following information—

- (a) the name and address of the pension fund holder;
- (b) such other information, including any reference number or policy number, as is needed to enable the personal pension scheme or retirement annuity contract to be identified.

(5) A pension fund holder to whom paragraph (4) applies shall, where the Board so require and within one month of being required to do so or such longer period as the Board may consider reasonable, provide the Board with the information specified in paragraph (6).

- (6) The information referred to in this paragraph is—
- (a) where the purchase of an annuity under a personal pension scheme has been deferred, the amount of any income which is being withdrawn from the personal pension scheme;
  - (b) in the case of—
    - (i) a personal pension scheme where income withdrawal is available, the maximum amount of income which may be withdrawn from the scheme; or
    - (ii) a personal pension scheme where income withdrawal is not available, or a retirement annuity contract, the maximum amount of income which might be withdrawn from the fund if the fund were held under a personal pension scheme where income withdrawal was available,
 calculated by or on behalf of the pension fund holder by means of tables prepared from time to time by the Government Actuary which are appropriate for this purpose.

(7) Every person providing childcare in respect of which a claimant to whom regulation 46A of the Family Credit (General) Regulations 1987 applies is incurring relevant childcare charges (within the meaning of that regulation), including a person providing childcare on behalf of a school, local authority, childcare scheme or establishment within paragraph (2)(b), (c) or (d) of that regulation, shall furnish such certificates, documents, information and evidence as may be required by the Board for the purposes of paragraph (1), and shall do so within one month of being required to do so or such longer period as the Board may consider reasonable.]

#### Textual Amendments

- F467** Regs. 17 18 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **13**
- F468** Reg. 17(2)(c)(ca) substituted for reg. 17(2)(c) (17.4.2012) by [The Social Security \(Suspension of Payment of Benefits and Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/824\)](#), regs. 1, **4(3)(a)**
- F469** Reg. 17(2)(f) added (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **40**
- F470** Reg. 17(4)(a)(i) substituted (17.4.2012) by [The Social Security \(Suspension of Payment of Benefits and Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/824\)](#), regs. 1, **4(3)(b)**
- F471** Words in reg. 17(4)(b) substituted (17.4.2012) by [The Social Security \(Suspension of Payment of Benefits and Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/824\)](#), regs. 1, **4(3)(c)**
- F472** Reg. 17(4A) inserted (17.4.2012) by [The Social Security \(Suspension of Payment of Benefits and Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/824\)](#), regs. 1, **4(3)(d)**
- F473** Word in reg. 17(5) substituted (28.6.2010) by [Social Security \(Miscellaneous Amendments\) \(No.3\) Regulations 2010 \(S.I. 2010/840\)](#), regs. 1, **7(6)**

#### Marginal Citations

- M22** Schedule 1B was inserted by [S.I. 1996/206](#).
- M23** [S.I. 1976/615](#); relevant amending instruments are [S.I. 1982/699](#), 1992/247 and 1994/2975.

#### Termination in cases of failure to furnish information or evidence

- 18.**—<sup>F467</sup>(1) Where a claimant—
- (a) is required by the Board under regulation 17 to furnish information, or evidence, and
  - (b) fails to do so within the period specified by the Board in accordance with that regulation (“the suspension period”),

the Board may, subject to paragraphs (3) and (4), decide to suspend payment of tax credit to or on behalf of the claimant in whole or in part.

(2) Where either—

(a) a claimant whose benefit has been suspended in whole or in part in accordance with regulation 16 subsequently fails to comply with a requirement for information or evidence made under regulation 17, within the suspension period, or within the period of one month immediately following the suspension period; or

(b) (i) a claimant has been required by the Board under regulation 17 to furnish information or evidence,

(ii) the claimant has failed to do so within the suspension period and within the period of one month immediately following the suspension period, and

(iii) the Board have suspended payment of tax credit to or on behalf of the claimant in whole or in part in accordance with paragraph (1) of this regulation,

the Board may, subject to paragraphs (3) to (5), decide that the claimant shall cease to be entitled to payment of tax credit with effect from a date not earlier than the date on which payment of tax credit was suspended.

(3) No decision shall be taken by the Board pursuant to paragraph (1) or (2) where—

(a) the failure to furnish information has been remedied; or

(b) the Board have allowed a further period of time (in addition to the suspension period or the period of one month referred to in paragraph (2)(a) or (b)(ii)) within which the claimant is required to furnish the information and the claimant has furnished the information within that further period.

(4) For the purposes of paragraphs (1) and (2), a claimant shall be deemed not to have failed to furnish information within the suspension period or within the period of one month referred to in paragraph (2)(a) or (b)(ii) if he had a reasonable excuse and that excuse has not ceased; and, where that excuse has ceased, he shall be deemed not to have failed to furnish information within either of those periods for those purposes if he furnished the information without unreasonable delay after the excuse had ceased.

(5) No decision shall be taken by the Board pursuant to paragraph (2) unless payment of the whole of the relevant tax credit to or on behalf of the claimant has been suspended, under regulation 16 or 17 or both of those regulations.]

#### Textual Amendments

**F467** Regs. 17 18 substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, 13

#### Suspension and termination for failure to submit to medical examination

**19.**—(1) Except where regulation 8 of the Social Security (Incapacity for Work) (General) Regulations 1995<sup>M24F474</sup> ... (where a question arises as to whether a person is capable of work) [<sup>F475</sup>or regulation 23 of the Employment and Support Allowance Regulations (where a question arises whether a person has limited capability for work) applies], the Secretary of State [<sup>F476</sup>or the Board] may require a person to submit to a medical examination by a [<sup>F477</sup>health care professional approved by the Secretary of State] where that person is in receipt of a relevant benefit, and either—

- (a) the Secretary of State considers [<sup>F478</sup>or the Board consider] it necessary to satisfy himself [<sup>F479</sup>or themselves] as to the correctness of the award of the benefit, or of the rate at which it was awarded; or
- (b) that person applies for a revision or supersession of the award and the Secretary of State considers [<sup>F480</sup>or the Board consider] that the examination is necessary for the purpose of making his [<sup>F481</sup>or their] decision.

(2) The Secretary of State [<sup>F482</sup>or the Board] may suspend payment of a relevant benefit in whole or in part, to a person who fails, without good cause, on two consecutive occasions to submit to a medical examination in accordance with requirements under paragraph (1) except where entitlement to benefit is suspended on an earlier date other than under this regulation.

(3) Subject to paragraph (4), the Secretary of State [<sup>F482</sup>or the Board] may determine that the entitlement to a relevant benefit of a person, in respect of whom payment of such a benefit has been suspended under paragraph (2), shall cease from a date not earlier than the date on which payment was suspended except where entitlement to benefit ceases on an earlier date other than under this regulation.

(4) Paragraph (3) shall not apply where not more than one month has elapsed since the first payment was suspended under paragraph (2).

#### Textual Amendments

- F474** Word in reg. 19(1) omitted (27.7.2008) by virtue of [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#) , regs. 1(2)(a) , **41(a)**
- F475** Words in reg. 19(1) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#) , regs. 1(2)(a) , **41(b)**
- F476** Words in reg. 19(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **14(2)(a)**
- F477** Words in reg. 19(1) substituted (3.7.2007) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2007 \(S.I. 2007/1626\)](#) , regs. 1 , **4(3)**
- F478** Words in reg. 19(1)(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **14(2)(b)(i)**
- F479** Words in reg. 19(1)(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **14(2)(b)(ii)**
- F480** Words in reg. 19(1)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **14(2)(c)(i)**
- F481** Words in reg. 19(1)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **14(2)(c)(ii)**
- F482** Words in reg. 19(2) (3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **14(3)**

#### Marginal Citations

- M24** [S.I. 1995/311](#) .

### Making of payments which have been suspended

**20.**—(1) Subject to paragraphs (2) and (3), payment of a benefit suspended in accordance with regulation 16 [<sup>F483</sup>or 17] shall be made where—



- (a) in a case to which regulation 16(2) or (3)(a)(i) to (iii) applies, the Secretary of State is satisfied [F484 or the Board are satisfied] that the benefit suspended is properly payable and no outstanding issues remain to be resolved;
- (b) in a case to which regulation 16(3)(a)(iv) applies, the Secretary of State is satisfied [F484 or the Board are satisfied] that he has [F485 or they have] been notified of the address at which the person is residing;

F486 (c) .....

[F487 (d)

[F489 (2) Where regulation 16(3)(b)(i) applies, payment of a benefit suspended shall be made if the Secretary of State—

- (a) does not, in the case of a decision of [F490 the First-tier Tribunal], apply for a statement of the reasons for that decision within the period [F491 specified under Tribunal Procedure Rules];
- (b) does not, in the case of a decision of [F492 the First-tier Tribunal, the Upper Tribunal] or a court, make an application for [F493 permission] to appeal and (where [F493 permission] to appeal is granted) make the appeal within the time prescribed for the making of such applications and appeals;
- (c) withdraws an application for [F494 permission] to appeal or the appeal; or
- (d) is refused [F494 permission] to appeal, in circumstances where it is not open to him to renew the application for [F494 permission] or to make a further application for [F494 permission] to appeal.

(3) Where regulation 16(3)(b)(ii) applies, payment of a benefit suspended shall be made if the Secretary of State, in relation to the decision of [F495 the Upper Tribunal] or the court in a different case—

- (a) does not make an application for [F496 permission] to appeal and (where [F496 permission] to appeal is granted) make the appeal within the time prescribed for the making of such applications and appeals;
- (b) withdraws an application for [F496 permission] to appeal or the appeal; or
- (c) is refused [F496 permission] to appeal, in circumstances where it is not open to him to renew the application for [F496 permission] or to make a further application for [F496 permission] to appeal.]

(4) Payment of benefit which has been suspended in accordance with regulation 19 for failure to submit to a medical examination shall be made where the Secretary of State is satisfied [F497 or the Board are satisfied] that it is no longer necessary for the person referred to in that regulation to submit to a medical examination.

**Textual Amendments**

- F483** Words in reg. 20(1) inserted (5.7.1999) by [The Social Security and Child Support \(Decisions and Appeals\) Amendment \(No. 2\) Regulations 1999 \(S.I. 1999/1623\)](#) , regs. 1(1) , **6**
- F484** Words in reg. 20(1)(a)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **15(2)**
- F485** Words in reg. 20(1)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **15(3)**
- F486** Reg. 20(1)(c) omitted (19.6.2000) by virtue of [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#) , regs. 1(1) , **21(a)**

- F487** Reg. 20(1)(d) inserted (5.7.1999) by The Social Security and Child Support (Decisions and Appeals) Amendment (No. 2) Regulations 1999 (S.I. 1999/1623) , regs. 1(1) , **6**
- F488** Reg. 20(1)(d) substituted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570) , regs. 1 , **15(4)**
- F489** Reg. 20(2)(3) substituted (19.6.2000) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2000 (S.I. 2000/1596) , regs. 1(1) , **21(b)**
- F490** Words in reg. 20(2)(a) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(2)(a)(i)**
- F491** Words in reg. 20(2)(a) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(2)(a)(ii)**
- F492** Words in reg. 20(2)(b) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(2)(b)(i)**
- F493** Words in reg. 20(2)(b) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(2)(b)(ii)**
- F494** Words in reg. 20(2)(c)(d) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(2)(c)**
- F495** Words in reg. 20(3) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(3)(a)**
- F496** Words in reg. 20(3) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 110(3)(b)**
- F497** Words in reg. 20(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570) , regs. 1 , **15(2)**

## CHAPTER II

### OTHER MATTERS

#### Decisions involving issues that arise on appeal in other cases

**21.—**(1) For the purposes of section 25(3)(b) (prescribed cases and circumstances in which a decision may be made on a prescribed basis) a case which satisfies the condition in paragraph (2) is a prescribed case.

(2) The condition is that the claimant would be entitled to the benefit to which the decision which falls to be made relates, even if the appeal in the other case referred to in section 25(1)(b) were decided in a way which is the most unfavourable to him.

(3) For the purposes of section 25(3)(b), the prescribed basis on which the Secretary of State [<sup>F498</sup>or the Board] may make the decision is as if—

- (a) the appeal in the other case which is referred to in section 25(1)(b) had already been determined; and
- (b) that appeal had been decided in a way which is the most unfavourable to the claimant.

(4) The circumstance prescribed under section 25(5)(c), where an appeal is pending against a decision for the purposes of that section, even though an appeal against the decision has not been brought (or, as the case may be, an application for [<sup>F499</sup>permission] to appeal against the decision

has not been made) but the time for doing so has not yet expired, is where the Secretary of State [<sup>F500</sup>or the Board]—

- (a) certifies in writing that he is [<sup>F501</sup>, or certify in writing that they are,] considering appealing against that decision; and
- (b) considers [<sup>F502</sup>, or consider,] that, if such an appeal were to be determined in a particular way—
  - (i) there would be no entitlement to benefit in a case to which section 25(1)(a) refers; or
  - (ii) the appeal would affect the decision in that case in some other way.

#### Textual Amendments

- F498** Words in reg. 21(3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **16(2)**
- F499** Word in reg. 21(4) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 111**
- F500** Words in reg. 21(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **16(3)(a)**
- F501** Words in reg. 21(4)(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **16(3)(b)**
- F502** Words in reg. 21(4)(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **16(3)(c)**

#### Appeals involving issues that arise in other cases

**22.** The circumstance prescribed under section 26(6)(c), where an appeal is pending against a decision in the case described in section 26(1)(b) even though an appeal against the decision has not been brought (or, as the case may be, an application for [<sup>F503</sup>permission] to appeal against the decision has not been made) but the time for doing so has not yet expired, is where the Secretary of State [<sup>F504</sup>or the Board]—

- (a) certifies in writing that he is [<sup>F505</sup>, or certify in writing that they are,] considering appealing against that decision; and
- (b) considers [<sup>F506</sup>, or consider,] that, if such an appeal were already determined, it would affect the determination of the appeal described in section 26(1)(a).

#### Textual Amendments

- F503** Word in reg. 22 substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 112**
- F504** Words in reg. 22 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **17(a)**
- F505** Words in reg. 22(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **17(b)**
- F506** Words in reg. 22(b) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **17(c)**

### Child support decisions involving issues that arise on appeal in other cases

**23.**—<sup>F507</sup>(1) For the purposes of section 28ZA(2)(b) of the Child Support Act <sup>M25</sup> (prescribed cases and circumstances in which a decision may be made on a prescribed basis), a case which satisfies either of the conditions in paragraph (2) is a prescribed case.

(2) The conditions referred to in paragraph (1) are that—

- (a) if a decision were not made on the basis prescribed in paragraph (3), the parent with care would become entitled to income support if a claim were made, or to an increased amount of that benefit;
- (b) the <sup>F508</sup>non-resident parent] is an employed earner or a self-employed earner.

(3) For the purposes of section 28ZA(2)(b) of the Child Support Act, the prescribed basis on which the <sup>F509</sup>Secretary of State] may make the decision is as if—

- (a) the appeal in relation to the different maintenance <sup>F510</sup>calculation], which is referred to in section 28ZA(1)(b) of that Act had already been determined; and
- (b) that appeal had been decided in a way that was the most unfavourable to the applicant for the decision mentioned in section 28ZA(1)(a) of that Act.

(4) The circumstances prescribed under section 28ZA(4)(c) of the Child Support Act (where an appeal is pending against a decision for the purposes of that section, even though an appeal against the decision has not been brought or, as the case may be, an application for <sup>F511</sup>permission] to appeal against the decision has not been made but the time for doing so has not expired), are that the <sup>F512</sup>Secretary of State]—

- (a) certifies in writing that <sup>F512</sup>the Secretary of State] is considering appealing against that decision; and
- (b) <sup>F512</sup>the Secretary of State] considers that, if such an appeal were to be determined in a particular way—
  - (i) there would be no liability for child support maintenance, or
  - (ii) such liability would be less than would be the case were an appeal not made.

(5) In this regulation—

“<sup>F513</sup>non-resident parent]” and “parent with care” have the same meaning as in section 54 of the Child Support Act;

“employed earner” and “self-employed earner” have the same meaning as in section 2(1) of the Contributions and Benefits Act.]

#### Textual Amendments

**F507** Reg. 23 omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**

**F508** Words in reg. 23(2)(b) substituted (3.3.2003 with effect in accordance with reg. 1(1), (3) of the amending S.I.) by [The Child Support \(Consequential Amendments and Transitional Provisions\) Regulations 2001 \(S.I. 2001/158\)](#), reg. 1(1), (3), 4(2); S.I. 2001/192, art. 3, **Sch.**

**F509** Words in reg. 23(3) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(10)(a)**

**F510** Word in reg. 23(3)(a) substituted (3.3.2003 with effect in accordance with reg. 1(1), (3) of the amending S.I.) by [The Child Support \(Consequential Amendments and Transitional Provisions\) Regulations 2001 \(S.I. 2001/158\)](#), **reg. 1(1)**, (3), 4(3); S.I. 2001/192, art. 3, **Sch.**

- F511** Word in reg. 23(4) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 113**
- F512** Words in reg. 23(4) substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(10)(b)**
- F513** Words in reg. 23(5) substituted (3.3.2003 with effect in accordance with reg. 1(1), (3) of the amending S.I.) by The Child Support (Consequential Amendments and Transitional Provisions) Regulations 2001 (S.I. 2001/158), **reg. 1(1)**, (3), 4(2); S.I. 2001/192, art. 3, **Sch.**

#### **Marginal Citations**

- M25** Section 28ZA was inserted by section 43 of the Social Security Act 1998.

### **Child support appeals involving issues that arise in other cases**

24. [<sup>F514</sup> The circumstances prescribed under section 28ZB(6)(c) of the Child Support Act <sup>M26</sup>, where an appeal is pending against a decision in the case described in section 28ZB(1)(b) even though an appeal against the decision has not been brought (or, as the case may be, an application for [<sup>F515</sup>permission] to appeal against the decision has not been made), is where the [<sup>F516</sup>Secretary of State] —

- (a) certifies in writing that [<sup>F517</sup>the Secretary of State] is considering appealing against that decision, and
- (b) considers that, if such an appeal were already determined, it would affect the determination of the appeal described in section 28ZB(1)(a).]

#### **Textual Amendments**

- F514** Reg. 24 omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations 2012 (S.I. 2012/2785), regs. 1(4), **6(3)**
- F515** Word in reg. 24 substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 114**
- F516** Words in reg. 24 substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(11)(a)**
- F517** Words in reg. 24(a) substituted (1.8.2012) by The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(11)(b)**

#### **Marginal Citations**

- M26** Section 28ZB was inserted by section 43 of the Social Security Act 1998.

## F88 PART IV

### RIGHTS OF APPEAL AND PROCEDURE FOR BRINGING APPEALS

#### CHAPTER I

#### GENERAL

#### GENERAL APPEALS MATTERS NOT INCLUDING CHILD SUPPORT APPEALS

##### Other persons with a right of appeal

25. For the purposes of [<sup>F518</sup>section 12(2)] [<sup>F519</sup>, but subject to regulation 3ZA,] the following other persons have a right to appeal to [<sup>F520</sup>the First-tier Tribunal]—

- [<sup>F521</sup>(ai) any person who has been appointed by the Secretary of State or the Board under regulation 30(1) of the Claims and Payments Regulations (payments on death) to proceed with the claim of a person who has made a claim for benefit and subsequently died;
- (aii) any person who is appointed by the Secretary of State to claim benefit on behalf of a deceased person and who claims the benefit under regulation 30(5) and (6) of the Claims and Payments Regulations;
- (aiii) any person who is appointed by the Secretary of State to make a claim for reduced earnings allowance or disablement benefit in the name of a person who has died and who claims under regulation 30(6A) and (6B) of the Claims and Payments Regulations;]
- (a) any person appointed by the Secretary of State [<sup>F522</sup>or the Board] under regulation 33(1) of the Claims and Payments Regulations (persons unable to act) to act on behalf of another;
- (b) any person claiming attendance allowance or disability living allowance on behalf of another under section 66(2)(b) of the Contributions and Benefits Act or, as the case may be, section 76(3) of that Act (claims on behalf of terminally ill persons);
- (c) in relation to a pension scheme, any person who, for the purposes of Part X of the Pension Schemes Act 1993 <sup>M27</sup>, is an employer, member, trustee or manager by virtue of section 146(8) of that Act.

##### Textual Amendments

- F518** Words in reg. 25 substituted (21.12.2004) by [Social Security, Child Support and Tax Credits \(Decisions and Appeals\) Amendment Regulations 2004 \(S.I. 2004/3368\)](#), regs. 1, **2(3)**
- F519** Words in reg. 25 inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(7)**
- F520** Words in reg. 25 substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 115**
- F521** Reg. 25(ai)(aiii) inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **7**
- F522** Words in reg. 25(a) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **18**

##### Marginal Citations

- M27** 1993 c.48 .

**Decisions against which an appeal lies**

26. [<sup>F523</sup>Subject to regulation 3ZA,] an appeal shall lie to [<sup>F524</sup>the First-tier Tribunal] against a decision made by the Secretary of State [<sup>F525</sup>or an officer of the Board]—

- (a) as to whether a person is entitled to a relevant benefit for which no claim is required by virtue of regulation 3 of the Claims and Payments Regulations <sup>M28</sup> ; or
- (b) as to whether a payment be made out of the social fund to a person to meet expenses for heating by virtue of regulations made under section 138(2) of the Contributions and Benefits Act (payments out of the social fund); [<sup>F526</sup>or
- (c) under Schedule 6 to the Contributions and Benefits Act (assessment of extent of disablement) in relation to sections 103 (disablement benefit) and 108 (prescribed diseases) of that Act for the purposes of industrial injuries benefit under Part V of that Act][<sup>F527</sup>;or
- (d) under section 59 of, and Schedule 7 to, the Welfare Reform and Pensions Act 1999 (couples to make joint-claim for jobseeker’s allowance) where one member of the couple is working and the Secretary of State has decided that both members of the couple are not engaged in remunerative work][<sup>F528</sup>; or
- (e) under, or by virtue of regulations made under, section 23A (contributions credits for relevant parents and carers) of the Contributions and Benefits Act.]

**Textual Amendments**

- F523** Words in reg. 26 inserted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(8)**
- F524** Words in reg. 26 substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 116**
- F525** Words in reg. 26 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **19**
- F526** Reg. 26(c) and word inserted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#), regs. 1(1), **22**
- F527** Reg. 26(d) and word inserted (19.3.2001) by [The Social Security Amendment \(Joint Claims\) Regulations 2001 \(S.I. 2001/518\)](#), regs. 1(1), **4(b)**
- F528** Reg. 26(e) and word inserted (6.4.2010) by [The Pensions Act 2007 \(Supplementary Provision\) Order 2009 \(S.I. 2009/2715\)](#), art. 1, 2

**Marginal Citations**

**M28** The relevant amending instruments are [S.I. 1989/136](#), [S.I. 1994/2943](#) and [S.I. 1996/1460](#).

**Decisions against which no appeal lies**

- 27.—(1) No appeal lies to [<sup>F529</sup>the First-tier Tribunal] against a decision set out in Schedule 2.
- (2) In paragraph (1) and Schedule 2, “decision” includes determinations embodied in or necessary to a decision.
- <sup>F530</sup>(3) .....

**Textual Amendments**

- F529** Words in reg. 27(1) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 117(a)**
- F530** Reg. 27(3) omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 117(b)**

**Notice of decision against which appeal lies**

**28.**—(1) A person with a right of appeal under the Act or these Regulations against any decision of the Secretary of State [<sup>F531</sup>or the Board or an officer of the Board] shall—

- (a) be given written notice of the decision against which the appeal lies;
- (b) be informed that, in a case where that written notice does not include a statement of the reasons for that decision, he may, within one month of the date of notification of that decision, request that the Secretary of State [<sup>F531</sup>or the Board or an officer of the Board] provide him with a written statement of the reasons for that decision; and
- (c) be given written notice of his right of appeal against that decision.

(2) Where a written statement of the reasons for the decision is not included in the written notice of the decision and is requested under paragraph (1)(b), the Secretary of State [<sup>F531</sup>or the Board or an officer of the Board] shall provide that statement within 14 days of receipt of the request [<sup>F532</sup>or as soon as practicable afterwards.]

**Textual Amendments**

- F531** Words in reg. 28 inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **20**
- F532** Words in reg. 28(2) added (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(6)**

<sup>F533</sup> **Further particulars required relating to certificate of recoverable benefits [<sup>F534</sup> or, as the case may be, recoverable lump sum payments ] appeals ...**

**29.**—<sup>F535</sup>(1) . . . . .

<sup>F535</sup>(2) . . . . .

[<sup>F536</sup>(3) [<sup>F537</sup>Where it appears to the Secretary of State that a notice of appeal in respect of an appeal under the 1997 Act relating to a certificate of recoverable benefits or, as the case may be, recoverable lump sum payments does not contain the particulars required, the Secretary of State may direct the appellants to provide such particulars.]]

(4) [<sup>F537</sup> Where paragraph (3) applies, the time specified for making the appeal <sup>F538</sup> ... may be extended by such period, not exceeding 14 days from the date of the Secretary of State’s direction under paragraph (3), as the Secretary of State may determine.]

(5) [<sup>F537</sup> Where further particulars <sup>F539</sup> ... are required under paragraph (3) they shall be sent to or delivered to the Compensation Recovery Unit of the [<sup>F540</sup> Department for Work and Pensions ] at [<sup>F541</sup> Durham House, Washington, Tyne and Wear, NE38 7SF] within such period as the Secretary of State may direct.]

[<sup>F542</sup>(6) The Secretary of State may treat any—



- (a) purported appeal (where, as the result of regulation 9ZB(2) (consideration of review before appeal), there is no right of appeal);
  - (b) appeal relating to the certificate of recoverable benefits; or
  - (c) appeal relating to the certificate of recoverable lump sum payments,
- as an application for review under section 10 of the 1997 Act.]

#### Textual Amendments

- F533** Words in reg. 29 heading omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 118(a)**
- F534** Words in reg. 29 heading inserted (1.10.2008) by [Social Security \(Recovery of Benefits\) \(Lump Sum Payments\) Regulations 2008 \(S.I. 2008/1596\)](#), reg. 1(1), **Sch. 2 para. 1(c)(i)** (with reg. 6)
- F535** Reg. 29(1)(2) omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 118(b)**
- F536** Reg. 29(3) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 118(c)**
- F537** Reg. 29(3)-(5) omitted (28.10.2013) by virtue of [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(10)(b)** (with reg. 8)
- F538** Words in reg. 29(4) omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 118(d)**
- F539** Words in reg. 29(5) omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 118(e)**
- F540** Words in reg. 29(5) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **8**
- F541** Words in reg. 29(5) substituted (4.12.2000) by [Social Security \(Recovery of Benefits\) \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/3030\)](#), regs. 1, **3**
- F542** Reg. 29(6) substituted (28.10.2013) by [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(9)**

#### GENERAL APPEALS MATTERS INCLUDING CHILD SUPPORT APPEALS

##### Appeal against a decision which has been [<sup>F543</sup> [<sup>F544</sup>replaced or]] revised

[<sup>F545</sup>An appeal against a decision of the Secretary of State or the Board or an officer of the Board shall not lapse where—

- (a) the decision is revised under section 9 before the appeal is determined; and
  - (b) the decision as revised is not more advantageous to the appellant than the decision before it was revised.]
- (2) Decisions which are more advantageous for the purposes of this regulation include decisions where—
- (a) any relevant benefit paid to the appellant is greater or is awarded for a longer period in consequence of the decision made under section 9;
  - (b) it would have resulted in the amount of relevant benefit in payment being greater but for the operation of any provision of the Administration Act or the Contributions and Benefits Act restricting or suspending the payment of, or disqualifying a claimant from receiving, some or all of the benefit;

- (c) as a result of the decision, a denial or disqualification for the receiving of any relevant benefit, is lifted, wholly or in part;
- (d) it reverses a decision to pay benefit to a third party;
- [<sup>F551</sup>(dd) it reverses a decision under section 29(2) that an accident is not an industrial accident;]
- (e) in consequence of the revised decision, benefit paid is not recoverable under section 71, 71A or 74 of the Administration Act <sup>M29</sup> or regulations made under any of those sections, or the amount so recoverable is reduced; or
- (f) a financial gain accrued or will accrue to the appellant in consequence of the decision.

[<sup>F552</sup>Where a decision as revised under section 9 is not more advantageous to the appellant than the decision before it was revised, the appeal shall be treated as though it had been brought against the decision as revised.]

(4) The appellant shall have a period of one month from the date of notification of the decision as [<sup>F556</sup>[<sup>F557</sup>replaced or]] revised to make further representations as to the appeal.

(5) After the expiration of the period specified in paragraph (4), or within that period if the appellant consents in writing, the appeal to the [<sup>F558</sup>First-tier Tribunal] shall proceed except where, in the light of the further representations from the appellant, the Secretary of State <sup>F559</sup>... [<sup>F560</sup>or the Board or an officer of the Board] further revises his [<sup>F561</sup>, or revise their,] decision and that decision is more advantageous to the appellant than the decision before it was [<sup>F556</sup>[<sup>F562</sup>replaced or]] revised.

### Textual Amendments

- F543** Words in reg. 30 omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(5)**
- F544** Words in reg. 30 inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **11(a)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F545** Reg. 30(1) substituted (10.12.2012 coming into force in accordance with reg. 1(4)) by [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(6)(a)**
- F546** Words in reg. 30(1) omitted (1.8.2012) by virtue of [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(12)**
- F547** Words in reg. 30(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **21(1)(a)**
- F548** Words in reg. 30(1) substituted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **11(b)(i)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F549** Words in reg. 30(1) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **11(b)(ii)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F550** Words in reg. 30(1) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **11(b)(iii)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F551** Reg. 30(2)(dd) added (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(7)**
- F552** Reg. 30(3) substituted (10.12.2012 coming into force in accordance with reg. 1(4)) by [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(6)(b)**

- F553** Words in reg. 30(3) substituted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **11(c)(i)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F554** Words in reg. 30(3) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **11(c)(ii)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F555** Words in reg. 30(3) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **11(c)(iii)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F556** Words in reg. 30(4)(5) omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(6)(c)**
- F557** Words in reg. 30(4) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **11(d)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F558** Words in reg. 30(5) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 119**
- F559** Words in reg. 30(5) omitted (1.8.2012) by virtue of [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(12)**
- F560** Words in reg. 30(5) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **21(1)(a)**
- F561** Words in reg. 30(5) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **21(1)(b)**
- F562** Words in reg. 30(5) inserted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **11(e)** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)

#### Marginal Citations

- M29** Section 71A was inserted by section 18 of the [Jobseekers Act 1995 \(c.18\)](#).

#### <sup>F563</sup> Appeals to <sup>F564</sup>the First-tier Tribunal] in child support cases

**30A.** <sup>F565</sup>Section 20 of the Child Support Act shall apply to any decision <sup>F566</sup>of the Secretary of State that an adjustment shall cease or with respect to the adjustment of amounts payable under a maintenance calculation for the purpose of taking account of overpayments of child support maintenance and voluntary payments, or a decision under section 17 of that Act, whether as originally made or as revised under section 16 of that Act. <sup>F566</sup>of the Commission with respect to the adjustment of amounts payable under a maintenance calculation for the purpose of taking account of overpayments of child support maintenance or voluntary payments.]]]]

#### Textual Amendments

- F563** Reg. 30A inserted (3.3.2003 for specified purposes and ) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#) , reg. 1(1)(2)**12** (with reg. 14(3) ) (see S.I. 2003/192, art. 3, Sch.)
- F564** Words in reg. 30A heading substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 120**
- F565** Reg. 30A revoked (25.1.2010) by [Child Support \(Management of Payments and Arrears\) Regulations 2009 \(S.I. 2009/3151\)](#) , regs. 1 , 14 , **Sch.** (with reg. 15 )

**F566** Words in reg. 30A substituted (6.4.2009) by [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#) , regs. 1 , **4(15)** (with reg. 7 )

**Time within which an appeal is to be brought**

<sup>F567</sup> **31** . . . . .

**Textual Amendments**

**F567** Reg. 31 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 121**

**Late appeals**

**32** .—<sup>F568</sup><sup>F569</sup>(1) Where a dispute arises as to whether an appeal was brought within the time specified under Tribunal Procedure Rules the dispute shall be referred to, and determined by, the First-tier Tribunal.

(2) The Secretary of State<sup>F570</sup>... or the Board, as the case may be, may treat a late appeal as made in time in accordance with Tribunal Procedure Rules if the conditions in paragraphs (4) to (8) are satisfied.]

<sup>F571</sup>(4) An appeal may be treated as made in time if the Secretary of State<sup>F572</sup>... or the Board, as the case may be, is satisfied that it is in the interests of justice.]

(5) For the purposes of paragraph (4) it is not in the interests of justice to <sup>F573</sup>treat the appeal as made in time unless<sup>F574</sup> [the Secretary of State or the Board, as the case may be,] is satisfied that—

- (a) the special circumstances specified in paragraph (6) are relevant<sup>F575</sup> ...; or
- (b) some other special circumstances exist which are wholly exceptional and relevant<sup>F575</sup> ...,

and as a result of those special circumstances, it was not practicable for the <sup>F576</sup>appeal to be made] within the time limit specified in <sup>F577</sup>Tribunal Procedure Rules].

(6) For the purposes of paragraph (5)(a), the special circumstances are that—

- (a) the <sup>F578</sup>appellant] or a <sup>F579</sup>partner] or dependant of the <sup>F578</sup>appellant] has died or suffered serious illness;
- (b) the <sup>F578</sup>appellant] is not resident in the United Kingdom; or
- (c) normal postal services were disrupted.

(7) In determining whether it is in the interests of justice to <sup>F580</sup>treat the appeal as made in time], <sup>F581</sup>regard shall be had] to the principle that the greater the amount of time that has elapsed between the expiration of the time <sup>F582</sup>limit under Tribunal Procedure Rules and the submission of the notice of appeal, the more compelling should be the special circumstances.]

(8) In determining whether it is in the interests of justice to <sup>F583</sup>treat the appeal as made in time], no account shall be taken of the following—

- (a) that the applicant or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by <sup>F584</sup>Tribunal Procedure Rules]); or
- (b) that <sup>F585</sup>the Upper Tribunal] or a court has taken a different view of the law from that previously understood and applied.

- F586( 9) .....
- F586( 10) .....
- F586( 11) .....]

### Textual Amendments

- F568** Reg. 32 omitted (28.10.2013) by virtue of [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013](#) (S.I. 2013/2380), regs. 1(2), **4(10)(c)** (with reg. 8)
- F569** Reg. 32(1)(2) substituted for reg. 32(1)-(3) (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008](#) (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(a)**
- F570** Words in reg. 32(2) omitted (1.8.2012) by virtue of [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012](#) (S.I. 2012/2007), art. 1(2), **Sch. para. 113(13)**
- F571** Reg. 32(4) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008](#) (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(b)**
- F572** Words in reg. 32(4) omitted (1.8.2012) by virtue of [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012](#) (S.I. 2012/2007), art. 1(2), **Sch. para. 113(13)**
- F573** Words in reg. 32(5) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008](#) (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(c)(i)**
- F574** Words in reg. 32(5) inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002](#) (S.I. 2002/1379), regs. 1(1), **10(c)(i)**
- F575** Words in reg. 32(5)(a)(b) omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008](#) (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(c)(ii)**
- F576** Words in reg. 32(5) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002](#) (S.I. 2002/1379), regs. 1(1), **10(c)(ii)**
- F577** Words in reg. 32(5) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008](#) (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(c)(iii)**
- F578** Words in reg. 32(6) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008](#) (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(d)**
- F579** Word in reg. 32(6)(a) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002](#) (S.I. 2002/1379), regs. 1(1), **10(d)**
- F580** Words in reg. 32(7) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008](#) (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(e)(i)**
- F581** Words in reg. 32(7) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002](#) (S.I. 2002/1379), regs. 1(1), **10(e)**
- F582** Words in reg. 32(7) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008](#) (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(e)(ii)**
- F583** Words in reg. 32(8) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008](#) (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(f)(i)**
- F584** Words in reg. 32(8)(a) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008](#) (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(f)(ii)**
- F585** Words in reg. 32(8)(b) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008](#) (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(f)(iii)**

**F586** Reg. 32(9)-(11) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 122(g)**

**Modifications etc. (not altering text)**

- C12** Reg. 32 applied (with modifications) (21.7.2002) by Child Support Appeals (Jurisdiction of Courts) Order 2002 (S.I. 2002/1915), art. 1(2)**5** (with art. 1(3))
- C13** Reg. 32 applied with modifications (18.2.2003 coming into force in accordance with art. 1(2)) by Child Support Appeals (Jurisdiction of Courts) (Scotland) Order 2003 (S.S.I. 2003/96), arts. 1(2), **5**
- C14** Reg. 32 applied (with modifications) by SI 2002/1915 art. 5 (as substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 181**)
- C15** Reg. 32 applied (with modifications) (with application in accordance with art. 21(1) of the amending S.I.) by The Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013 (S.I. 2013/983), **art. 21(2)(3)(a)**

**[F587] Notice of Appeal**

**33.—**<sup>F588</sup>[<sup>F589</sup>( 1 ) . . . . .

(2) [<sup>F590</sup>A notice of appeal made in accordance with Tribunal Procedure Rules and on a form approved by the Secretary of State <sup>F591</sup> ... or the Board, as the case may be, or in such other format as the Secretary of State <sup>F591</sup> ... or the Board, as the case may be, accepts, is to be sent or delivered to the following appropriate office ] —

- (a) in the case of an appeal under the 1997 Act against a certificate of recoverable benefits [<sup>F592</sup>or, as the case maybe, recoverable lump sum payments], the Compensation Recovery Unit of the [<sup>F593</sup>Department for Work and Pensions] at [<sup>F594</sup>Durham House, Washington, Tyne and Wear, NE38 7SF];
- (b) in the case of an appeal against a decision relating to a jobseeker’s allowance, an office of the [<sup>F595</sup>Department for Work and Pensions the address of which was indicated on the notification of the decision which is subject to appeal];
- (c) in the case of a contributions decision which falls within Part II of Schedule 3 to the Act, any National Insurance Contributions office [<sup>F596</sup>of the Board, or any office of the [<sup>F597</sup>Department for Work and Pensions]];
- [<sup>F598</sup>(cc) in the case of a decision made under the Pension Schemes Act 1993 by virtue of section 170(2) of that Act, any National Insurance Contributions office of the Board;]
- (d) [<sup>F599</sup> in the case of an appeal under section 20 of the Child Support Act <sup>F600</sup> ..., an office of the Child Support Agency; and ]
- [<sup>F601</sup>(dd) in the case of an appeal against a decision relating to working families' tax credit or disabled person’s tax credit, a Tax Credits Office of the Board, and.]
- [<sup>F602</sup>(ddd) in a case where the decision appealed against was a decision arising from a claim to a designated office, an office of a designated authority;]
- (e) in any other case, an office of the [<sup>F603</sup>Department for Work and Pensions the address of which was indicated on the notification of the decision which is subject to appeal].

[<sup>F604</sup>(3) Except where paragraph (4) applies, where a form does not contain the information required under Tribunal Procedure Rules the form may be returned by the Secretary of State <sup>F591</sup> ... or the Board to the sender for completion in accordance with the Tribunal Procedure Rules. ]

(4) Where the Secretary of State is satisfied [<sup>F605</sup>or the Board are satisfied] that the form, although not completed in accordance with the instructions on it, includes sufficient information to enable the appeal <sup>F606</sup> ... to proceed, he [<sup>F607</sup>or they] may treat the form as satisfying the requirements of [<sup>F608</sup>Tribunal Procedure Rules ] .

(5) Where [<sup>F609</sup>a notice of appeal ] is made in writing otherwise than on the approved form (“the letter”), and the letter includes sufficient information to enable the appeal <sup>F610</sup> ... to proceed, the Secretary of State [<sup>F611</sup>or the Board] may treat the letter as satisfying the requirements of [<sup>F612</sup>Tribunal Procedure Rules ] .

(6) Where the letter does not include sufficient information to enable the appeal <sup>F613</sup> ... to proceed, the Secretary of State [<sup>F611</sup>or the Board] may request further information in writing (“further particulars”) from the person who wrote the letter.

[<sup>F614</sup>(7) Where a person to whom a form is returned, or from whom further particulars are requested, duly completes and returns the form or sends the further particulars, if the form or particulars, as the case may be, are received by the Secretary of State or the Board within—

- (a) 14 days of the date on which the form was returned to him by the Secretary of State or the Board, the time for making the appeal shall be extended by 14 days from the date on which the form was returned;
- (b) 14 days of the date on which the Secretary of State’s or the Board’s request was made, the time for making the appeal shall be extended by 14 days from the date of the request; or
- (c) such longer period as the Secretary of State or the Board may direct, the time for making the appeal shall be extended by a period equal to that longer period directed by the Secretary of State or the Board.]

(8) Where a person to whom a form is returned or from whom further particulars are requested does not complete and return the form or send further particulars within the period of time specified in paragraph (7)—

- (a) the Secretary of State [<sup>F611</sup>or the Board] shall forward a copy of the form, or as the case may be, the letter, together with any other relevant documents or evidence to [<sup>F615</sup>the First-tier Tribunal], and
- (b) the [<sup>F616</sup>First-tier Tribunal] shall determine whether the form or the letter satisfies the requirement of [<sup>F617</sup>Tribunal Procedure Rules.]

(9) Where—

- (a) a form is duly completed and returned or further particulars are sent after the expiry of the period of time allowed in accordance with paragraph (7), and
- (b) no decision has been made under paragraph (8) at the time the form or the further particulars are received by the Secretary of State [<sup>F611</sup>or the Board],

that form or further particulars shall also be forwarded to the [<sup>F618</sup>First-tier Tribunal which] shall take into account any further information or evidence set out in the form or further particulars.

[<sup>F619</sup>[<sup>F620</sup>(10) The Secretary of State or the Board may discontinue action on an appeal where the [<sup>F621</sup>notice of] appeal has not been forwarded to the [<sup>F622</sup>First-tier Tribunal] and the appellant or an authorised representative of the appellant has given written notice that he does not wish the appeal to continue.]]]

#### Textual Amendments

**F587** Reg. 33 heading substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, [Sch. 1 para. 123\(2\)](#)

- F588** Reg. 33(1) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(3)**
- F589** Reg. 33 omitted (28.10.2013) by virtue of The Social Security, Child Support, Vaccine Damage and Other Payments (Decisions and Appeals) (Amendment) Regulations 2013 (S.I. 2013/2380), regs. 1(2), **4(10)(d)** (with reg. 8)
- F590** Words in reg. 33(2) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(4)**
- F591** Words in reg. 33(2)(3) omitted (1.8.2012) by virtue of The Public Bodies (Child Maintenance and Enforcement Commission Abolition and Transfer of Functions) Order 2012 (S.I. 2012/2007), art. 1(2), **Sch. para. 113(14)**
- F592** Words in reg. 33(2)(a) inserted (1.10.2008) by Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 (S.I. 2008/1596), reg. 1(1), **Sch. 2 para. 1(e)** (with reg. 6)
- F593** Words in reg. 33(2)(a) substituted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **11(a)(i)**
- F594** Words in reg. 33(2)(a) substituted (4.12.2000) by Social Security (Recovery of Benefits) (Miscellaneous Amendments) Regulations 2000 (S.I. 2000/3030), regs. 1, **4**
- F595** Words in reg. 33(2)(b) substituted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **11(a)(ii)**
- F596** Words in reg. 33(2)(c) inserted (5.7.1999) by The Social Security Contributions (Transfer of Functions, etc.) Act 1999 (Commencement No. 2 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1662), art. 1, **3(4)**
- F597** Words in reg. 33(2)(c) substituted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **11(a)(i)**
- F598** Reg. 33(2)(cc) inserted (5.7.1999) by The Social Security Contributions (Transfer of Functions, etc.) Act 1999 (Commencement No. 2 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1662), art. 1, **3(4)**
- F599** Reg. 33(2)(d) omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of The Child Support (Meaning of Child and New Calculation Rules) (Consequential and Miscellaneous Amendment) Regulations 2012 (S.I. 2012/2785), regs. 1(4), **6(7)**
- F600** Word in reg. 33(2)(d) omitted (3.3.2003 for specified purposes and in accordance with reg. 1(1), (2) of the amending S.I.) by virtue of The Child Support (Consequential Amendments and Transitional Provisions) Regulations 2001 (S.I. 2001/158), regs. 1(3), **4(4)**; S.I. 2003/192, art. 3(1), Sch.
- F601** Reg. 33(2)(dd) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **23(3)(b)**
- F602** Reg. 33(2)(ddd) inserted (3.4.2000) by The Social Security (Work-focused Interviews) Regulations 2000 (S.I. 2000/897), reg. 1, **Sch. 6 para. 6** (with reg. 2(5))
- F603** Words in reg. 33(2)(e) substituted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **11(a)(iii)**
- F604** Reg. 33(3) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(5)**
- F605** Words in reg. 33(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **23(5)(a)**
- F606** Words in reg. 33(4) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(6)(a)**
- F607** Words in reg. 33(4) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **23(5)(b)**
- F608** Words in reg. 33(4) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(6)(b)**
- F609** Words in reg. 33(5) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(7)(a)**



- F610** Words in reg. 33(5) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(7)(b)**
- F611** Words in reg. 33(5)-(9) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Decisions and Appeals) (Amendment) Regulations 1999 (S.I. 1999/2570), regs. 1, **23(4)**
- F612** Words in reg. 33(5) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(7)(c)**
- F613** Words in reg. 33(6) omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(8)**
- F614** Reg. 33(7) substituted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **11(b)**
- F615** Words in reg. 33(8)(a) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(9)(a)**
- F616** Words in reg. 33(8)(b) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(9)(b)(i)**
- F617** Words in reg. 33(8)(b) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(9)(b)(ii)**
- F618** Words in reg. 33(9) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(10)**
- F619** Reg. 33(10) substituted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379), regs. 1(1), **11(c)**
- F620** Reg. 33(10) added (19.6.2000) by The Social Security and Child Support (Miscellaneous Amendments) Regulations 2000 (S.I. 2000/1596), regs. 1(1), **23**
- F621** Words in reg. 33(10) inserted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(11)(a)**
- F622** Words in reg. 33(10) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 123(11)(b)**

**Modifications etc. (not altering text)**

- C16** Reg. 33 applied (with modifications) (with application in accordance with art. 21(1) of the amending S.I.) by The Welfare Reform Act 2012 (Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions (Amendment)) Order 2013 (S.I. 2013/983), **art. 21(2)(3)(b)**

**Death of a party to an appeal**

**34** .—<sup>F623</sup>(1) In any proceedings, on the death of a party to those proceedings (other than the Secretary of State [<sup>F624</sup>or the Board]), the Secretary of State [<sup>F624</sup>or the Board] may appoint such person as he thinks [<sup>F625</sup>or they think] fit to proceed with the appeal in the place of such deceased party.

(2) A grant of probate, confirmation or letters of administration to the estate of the deceased party, whenever taken out, shall have no effect on an appointment made under paragraph (1).

(3) Where a person appointed under paragraph (1) has, prior to the date of such appointment, taken any action in relation to the appeal on behalf of the deceased party, the effective date of appointment

by the Secretary of State [<sup>F626</sup>or the Board] shall be the day immediately prior to the first day on which such action was taken.]

#### Textual Amendments

- F623** Reg. 34 omitted (28.10.2013) by virtue of [The Social Security, Child Support, Vaccine Damage and Other Payments \(Decisions and Appeals\) \(Amendment\) Regulations 2013 \(S.I. 2013/2380\)](#), regs. 1(2), **4(10)(e)** (with reg. 8)
- F624** Words in reg. 34(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **24(a)**
- F625** Words in reg. 34(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **24(b)**
- F626** Words in reg. 34(3) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#), regs. 1, **24(a)**

#### Modifications etc. (not altering text)

- C17** Reg. 34 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#), regs. 1(1), **8** (with reg. 8(4))
- C18** Reg. 34 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#), regs. 1(1), **8**
- C19** Reg. 34 applied (with modifications) by SI 2006/3398 reg. 8 (as substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 326**)
- C20** Reg. 34 applied (with modifications) (25.1.2010) by [Child Support \(Management of Payments and Arrears\) Regulations 2009 \(S.I. 2009/3151\)](#), regs. 1, **12(2)** (with regs. 10, 15)
- C21** Reg. 34 applied (with modifications) (with application in accordance with art. 21(1) of the amending S.I.) by [The Welfare Reform Act 2012 \(Commencement No. 9 and Transitional and Transitory Provisions and Commencement No. 8 and Savings and Transitional Provisions \(Amendment\)\) Order 2013 \(S.I. 2013/983\)](#), **art. 21(2)(3)(c)**

## PART V

### APPEAL TRIBUNALS FOR SOCIAL SECURITY CONTRACTING OUT OF PENSIONS VACCINE DAMAGE AND CHILD SUPPORT

#### CHAPTER I

#### THE PANEL AND APPEAL TRIBUNALS

##### Persons appointed to the panel

**35.** [<sup>F627</sup>For the purposes of section 6(3), the panel shall include persons with the qualifications specified in Schedule 3.]

#### Textual Amendments

- F627** Regs. 35-38 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 124** (with arts. 3(2)(b), 4)

**Composition of appeal tribunals**

**36 .—**( 1 ) [<sup>F627</sup> Subject to the following provisions of this regulation, an appeal tribunal <sup>F628</sup> ... shall consist of a legally qualified panel member. ]

[<sup>F629</sup>(2) Subject to [<sup>F630</sup> paragraphs (3) to (5) [<sup>F631</sup> and (8)]]], an appeal tribunal shall consist of a legally qualified panel member and—

(a) [<sup>F627</sup> a medically qualified panel member where—

(i) the issue, or one of the issues, raised on the appeal is whether the [<sup>F632</sup> personal capability assessment] is satisfied; or

(ii) the appeal is made under section 11(1)(b) of the 1997 Act; or

[<sup>F633</sup> [ the appeal is made under section 157(1) of the Health and Social Care (Community <sup>F634</sup>(iii) Health and Standards) Act 2003; or]]]

<sup>F627</sup>( b ) . . . . .

<sup>F627</sup>( 3 ) . . . . .

<sup>F627</sup>( 4 ) . . . . .

( 5 ) [<sup>F627</sup> Where the composition of an appeal tribunal is prescribed under [<sup>F635</sup> paragraph (1), (2) (a)] [<sup>F636</sup> or (3)], the President may determine that the appeal tribunal shall include such an additional member drawn from the panel constituted under section 6 as he considers appropriate for the purposes of providing further experience for that additional member or for assisting the President in the monitoring of standards of decision making by panel members.]

<sup>F627</sup>( 6 ) . . . . .

<sup>F627</sup>( 7 ) . . . . .

[<sup>F637</sup>(8) [<sup>F627</sup> A person shall not act as a medically qualified panel member of an appeal tribunal in any appeal if he has at any time advised or prepared a report upon any person whose medical condition is relevant to the issue in the appeal, or has at any time regularly attended such a person.]]

<sup>F638</sup>( 9 ) . . . . .

**Textual Amendments**

**F627** Regs. 35-38 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 124** (with arts. 3(2)(b) , 4 )

**F628** Words in reg. 36(1) omitted (19.6.2000) by The Social Security and Child Support (Decisions and Appeals) (Amendment) Regulations 2000 (SI 2000/1596), reg. 1(1), 24(a)

**F629** Reg. 36(2) substituted (1.6.1999) by The Social Security and Child Support (Decisions and Appeals) (Amendment) Regulations 1999 (SI 1999/1466), reg. 1, 2(a)

**F630** Words in reg. 36(2) substituted (19.6.2000) by The Social Security and Child Support (Decisions and Appeals) (Amendment) Regulations 2000 (SI 2000/1596), reg. 1(1), 24(b)

**F631** Words in reg. 36(2) substituted (21.12.2004) by [Social Security, Child Support and Tax Credits \(Decisions and Appeals\) Amendment Regulations 2004 \(S.I. 2004/3368\)](#) , regs. 1 , **2(4)(a)**

**F632** Words in reg. 36(2)(a)(i) substituted (19.6.2000) by The Social Security and Child Support (Decisions and Appeals) (Amendment) Regulations 2000 (SI 2000/1596), reg. 1(1), 24(c)

**F633** Reg. 36(2)(a)(iii) inserted (1.4.2007) by [Health and Social Care \(Community Health and standards\) Act 2003 Supplementary Provisions \(Recovery of NHS Charges\) \(Scotland\) Order 2007 \(S.S.I. 2007/223\)](#) , arts. 1(1) , **2**

- F634** Reg. 36(2)(a)(iii) inserted (13.4.2007) by [Health and Social Care \(Community Health and Standards\) Act 2003 Consequential Provisions \(Recovery of NHS Charges\) Order 2007 \(S.I. 2007/917\)](#) , arts. 1(1) , **2**
- F635** Words in reg. 36(5) substituted (1.6.1999) by [The Social Security and Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(SI 1999/1466\)](#), reg. 1, 2(b)
- F636** Words in reg. 36(5) substituted (21.12.2004) by [Social Security, Child Support and Tax Credits \(Decisions and Appeals\) Amendment Regulations 2004 \(S.I. 2004/3368\)](#) , regs. 1 , **2(4)(b)**
- F637** Reg. 36(8)(9) inserted (19.6.2000) by [The Social Security and Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(SI 2000/1596\)](#), reg. 1(1), 24(h)
- F638** Reg. 36(9) omitted (21.12.2004) by virtue of [Social Security, Child Support and Tax Credits \(Decisions and Appeals\) Amendment Regulations 2004 \(S.I. 2004/3368\)](#) , regs. 1 , **2(4)(c)**

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**Modifications etc. (not altering text)**

- C22** Reg. 36 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**
- C23** Reg. 36(1)(5) applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , regs. 1(1) , **8** (with reg. 8(4) )

**Assignment of clerks to appeal tribunals: function of clerks**

**37.** [<sup>F627</sup>The Secretary of State shall assign a clerk to service each appeal tribunal and the clerk so assigned shall be responsible for summoning members of the panel constituted under section 6 to serve on the tribunal.]

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**Textual Amendments**

- F627** Regs. 35-38 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 124** (with arts. 3(2)(b) , 4 )

**CHAPTER II**

**PROCEDURE IN CONNECTION WITH  
DETERMINATION OF APPEALS AND REFERRALS**

**Consideration and determination of appeals and referrals**

**38.**—[<sup>F627</sup>(1) The procedure in connection with the consideration and determination of an appeal or a referral shall, subject to the following provisions of these Regulations, be such as a legally qualified panel member shall determine.

(2) A legally qualified panel member may give directions requiring a party to the proceedings to comply with any provision of these Regulations and may at any stage of the proceedings, either of his own motion or on a written application made to the clerk to the appeal tribunal by any party to the proceedings, give such directions as he may consider necessary or desirable for the just, effective and efficient conduct of the proceedings and may direct any party to the proceedings to provide such particulars or to produce such documents as may be reasonably required.

(3) Where a clerk to the appeal tribunal is authorised to take steps in relation to the procedure of the tribunal he may give directions requiring any party to the proceedings to comply with any provision of these Regulations.]

### Textual Amendments

**F627** Regs. 35-38 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 124** (with arts. 3(2)(b), 4)

### Modifications etc. (not altering text)

**C24** Reg. 38 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#), regs. 1(1), **8**

**C25** Reg. 38 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#), regs. 1(1), **8** (with reg. 8(4))

## **[<sup>F639</sup> Appeals raising issues for decision by officers of Inland Revenue**

**38A.**—(1) Where [<sup>F640</sup> a person has appealed to [<sup>F641</sup> the First-tier Tribunal and it appears to the First-tier Tribunal, ] , ] that an issue arises which, by virtue of section 8 of the Transfer Act, falls to be decided by an officer of the Board, that tribunal <sup>F642</sup> ... shall—

- (a) refer the appeal to the Secretary of State pending the decision of that issue by an officer of the Board; and
- (b) require the Secretary of State to refer that issue to the Board;

and the Secretary of State shall refer that issue accordingly.

(2) Pending the final decision of any issue which has been referred to the Board in accordance with paragraph (1) above, the Secretary of State may revise the decision under appeal, or make a further decision superseding that decision, in accordance with his determination of any issue other than one which has been so referred.

(3) On receipt by the Secretary of State of the final decision of an issue which has been referred in accordance with paragraph (1) above, he shall consider whether the decision under appeal ought to be revised under section 9 or superseded under section 10, and—

- (a) if so, revise it or, as the case may be, make a further decision which supersedes it; or
- (b) if not, forward the appeal to the [<sup>F643</sup>First-tier Tribunal] which shall determine the appeal in accordance with the final decision of the issue so referred.

(4) In paragraphs (2) and (3) above, “final decision” has the same meaning as in regulation 11A(3) and (4).]

### Textual Amendments

**F639** Reg. 38A inserted (5.7.1999) by [The Social Security and Child Support \(Decisions and Appeals\) Amendment \(No. 3\) Regulations 1999 \(S.I. 1999/1670\)](#), regs. 1(1), **2(4)**

**F640** Words in reg. 38A(1) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **12(a)**

**F641** Words in reg. 38A(1) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 125(a)** (i)

**F642** Words in reg. 38A(1) omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 125(a)** (ii)

**F643** Words in reg. 38A(3)(b) substituted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 125(b)**

### **[<sup>F644</sup>Choice of hearing**

**39 .—**[<sup>F645</sup>(1) Where an appeal or a referral is made to an appeal tribunal the appellant and any other party to the proceedings shall notify the clerk to the appeal tribunal, on a form approved by the Secretary of State, whether he wishes to have an oral hearing of the appeal or whether he is content for the appeal or referral to proceed without an oral hearing.

(2) Except in the case of a referral, the form shall include a statement informing the appellant that, if he does not notify the clerk to the appeal tribunal as required by paragraph (1) within the period specified in paragraph (3), the appeal may be struck out in accordance with regulation 46(1).

(3) Notification in accordance with paragraph (1)—

- (a) if given by the appellant or a party to the proceedings other than the Secretary of State, must be sent or given to the clerk to the appeal tribunal within 14 days of the date on which the form is issued to him; or
- (b) if given by the Secretary of State, must be sent or given to the clerk—
  - (i) in the case of an appeal, within 14 days of the date on which the form is issued to the appellant; or
  - (ii) in the case of a referral, on the date of referral, or within such longer period as the clerk may direct.

(4) Where an oral hearing is requested in accordance with paragraphs (1) and (3) the appeal tribunal shall hold an oral hearing unless the appeal is struck out under regulation 46(1).]

(5) The chairman, or in the case of an appeal tribunal which has only one member, that member, may of his own motion direct that an oral hearing of the appeal or referral be held if he is satisfied that such a hearing is necessary to enable the appeal tribunal to reach a decision.]

#### **Textual Amendments**

**F644** Reg. 39(1)-(4) and heading substituted (21.12.2004) by Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368) , regs. 1 , **2(5)**

**F645** Regs. 39-47 omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )

#### **Modifications etc. (not altering text)**

**C26** Reg. 39 applied (with modifications) (29.1.2007) by Personal Injuries (NHS Charges) (Reviews and Appeals) (Scotland) Regulations 2006 (S.S.I. 2006/593) , regs. 1(1) , **8** (with reg. 8(4) )

**C27** Reg. 39 applied (mods) (29.1.2007) by Personal Injuries (NHS Charges) (Reviews and Appeals) and Road Traffic (NHS Charges) (Reviews and Appeals) (Amendment) Regulations 2006 (S.I. 2006/3398) , regs. 1(1) , **8**

### **Withdrawal of appeal or referral**

**40 .—**[<sup>F645</sup>(1) An appeal may be withdrawn by the appellant or an authorised representative of the appellant and a referral may be withdrawn by the [<sup>F646</sup>Secretary of State][<sup>F646</sup>the Board or an officer of the Board.]], as the case may be, either—

- (a) at an oral hearing; or

(b) at any other time before the appeal or referral is determined, by giving notice in writing of withdrawal to the clerk to the appeal tribunal.

(2) If an appeal or a referral is withdrawn (as the case may be) in accordance with paragraph (1) (a), the clerk to the appeal tribunal shall send a notice in writing to any party to the proceedings who is not present when the appeal or referral is withdrawn, informing him that the appeal or referral (as the case may be) has been withdrawn.

(3) If an appeal or a referral is withdrawn (as the case may be) in accordance with paragraph (1) (b), the clerk to the appeal tribunal shall send a notice in writing to every party to the proceedings informing them that the appeal or referral (as the case may be) has been withdrawn.]

**Textual Amendments**

**F645** Regs. 39-47 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )

**F646** Words in reg. 40(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **25**

**Modifications etc. (not altering text)**

**C28** Reg. 40 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**

**C29** Reg. 40 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , regs. 1(1) , **8** (with reg. 8(4) )

**Medical examination required by appeal tribunal**

**F645 41** . . . . .

**Textual Amendments**

**F645** Regs. 39-47 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )

**Non-disclosure of medical advice or evidence**

**42** .—<sup>F645</sup>(1) Where, in connection with the consideration and determination of an appeal or referral there is before an appeal tribunal medical advice or medical evidence relating to a person which has not been disclosed to him and in the opinion of the chairman, or in the case of an appeal tribunal which has only one member, in the opinion of that member, the disclosure to that person of that advice or evidence would be harmful to his health, such advice or evidence shall not be required to be disclosed to that person.

(2) Advice or evidence such as is mentioned in paragraph (1) shall not be disclosed to any person acting for or representing the person to whom it relates or, in a case where a claim for benefit is made by reference to the disability of a person other than the claimant and the advice or evidence relates to that other person, shall not be disclosed to the claimant or any person acting for or representing him, unless the chairman, or in the case of an appeal tribunal which has only one member, that member, is satisfied that it is in the interests of the person to whom the advice or evidence relates to do so.

(3) A tribunal shall not be precluded from taking into account for the purposes of the determination advice or evidence which has not been disclosed to a person under the provisions of paragraph (1) or (2).]

#### Textual Amendments

**F645** Regs. 39-47 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )

#### Modifications etc. (not altering text)

**C30** Reg. 42 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , regs. 1(1) , **8** (with reg. 8(4) )

**C31** Reg. 42 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**

### Summoning of witnesses and administration of oaths

**43** .—<sup>F645</sup>(1) A chairman, or in the case of an appeal tribunal which has only one member, that member, may by summons, or in Scotland, by citation, require any person in Great Britain to attend as a witness at a hearing of an appeal, application or referral at such time and place as shall be specified in the summons or citation and, subject to paragraph (2), at the hearing to answer any question or produce any documents in his custody or under his control which relate to any matter in question in the appeal, application or referral but—

- (a) no person shall be required to attend in obedience to such summons or citation unless he has been given at least 14 days' notice of the hearing or, if less than 14 days' notice is given, he has informed the tribunal that the notice given is sufficient; and
- (b) no person shall be required to attend and give evidence or to produce any document in obedience to such summons or citation unless the necessary expenses of attendance are paid or tendered to him.

(2) No person shall be compelled to give any evidence or produce any document or other material that he could not be compelled to give or produce on a trial of an action in a court of law in that part of Great Britain where the hearing takes place.

(3) In exercising the powers conferred by this regulation, the chairman, or in the case of an appeal tribunal which has only one member, that member, shall take into account the need to protect any matter that relates to intimate personal or financial circumstances, is commercially sensitive, consists of information communicated or obtained in confidence or concerns national security.

(4) Every summons or citation issued under this regulation shall contain a statement to the effect that the person in question may apply in writing to a chairman to vary or set aside the summons or citation.

(5) A chairman, or in the case of an appeal tribunal which has only one member, that member, may require any witness, including a witness summoned under the powers conferred by this regulation, to give evidence on oath or affirmation and for that purpose there may be administered an oath or affirmation in due form.]



**Textual Amendments**

**F645** Regs. 39-47 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )

**Modifications etc. (not altering text)**

- C32** Reg. 43 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , regs. 1(1) , **8** (with reg. 8(4) )
- C33** Reg. 43 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**

**Confidentiality in child support appeals or referrals**

<sup>F645</sup> **44** . . . . .

**Textual Amendments**

**F645** Regs. 39-47 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )

**Procedure following a referral under section 28D(1)(b) of the Child Support Act**

<sup>F645</sup> **45** . . . . .

**Textual Amendments**

**F645** Regs. 39-47 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )

**CHAPTER III**

**STRIKING OUT APPEALS**

**Appeals which may be struck out**

**46** .—<sup>F645</sup>(1) Subject to paragraphs (2) and (3), an appeal may be struck out by the clerk to the appeal tribunal—

- (a) where it is an out of jurisdiction appeal and the appellant has been notified by the Secretary of State that an appeal brought against such a decision may be struck out;
- (b) for want of prosecution including an appeal not made within the time specified in these Regulations; <sup>F647</sup> ...
- (c) <sup>F648</sup> ... for failure of the appellant to comply with a direction given under these Regulations where the appellant has been notified that failure to comply with the direction could result in the appeal being struck out [<sup>F649</sup> ; or ]

[<sup>F650</sup>(d) for failure of the appellant to notify the clerk to the appeal tribunal, in accordance with regulation 39, whether or not he wishes to have an oral hearing of his appeal.]

(2) Where the clerk to the appeal tribunal determines to strike out the appeal, he shall notify the appellant that his appeal has been struck out and of the procedure for reinstatement of the appeal as specified in regulation 47.

(3) The clerk to the appeal tribunal may refer any matter for determination under this regulation to a legally qualified panel member for decision by the panel member rather than the clerk to the appeal tribunal.

<sup>F651</sup>( 4 ) . . . . . ]

**Textual Amendments**

- F645** Regs. 39-47 omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F647** Word in reg. 46(1)(b) omitted (21.12.2004) by virtue of Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368) , regs. 1 , **2(6)(a)(i)**
- F648** Words in reg. 46(1)(c) omitted (21.12.2004) by virtue of Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368) , regs. 1 , **2(6)(a)(ii)**
- F649** Word in reg. 46(1)(c) added (21.12.2004) by Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368) , regs. 1 , **2(6)(a)(ii)**
- F650** Reg. 46(1)(d) added (21.12.2004) by Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368) , regs. 1 , **2(6)(a)(iii)**
- F651** Reg. 46(4) omitted (21.12.2004) by virtue of Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368) , regs. 1 , **2(6)(b)**

**Modifications etc. (not altering text)**

- C34** Reg. 46 applied (mods) (29.1.2007) by Personal Injuries (NHS Charges) (Reviews and Appeals) and Road Traffic (NHS Charges) (Reviews and Appeals) (Amendment) Regulations 2006 (S.I. 2006/3398) , regs. 1(1) , **8**
- C35** Reg. 46 applied (with modifications) (29.1.2007) by Personal Injuries (NHS Charges) (Reviews and Appeals) (Scotland) Regulations 2006 (S.S.I. 2006/593) , regs. 1(1) , **8** (with reg. 8(4) )

**Reinstatement of struck out appeals**

**47.**—[<sup>F645</sup>[<sup>F652</sup>(1) The clerk to the appeal tribunal may reinstate an appeal which has been struck out in accordance with regulation [<sup>F653</sup>46(1)(d)] where—

- (a) the appellant has made representations to him or, as the case may be, further representations in support of his appeal with reasons why he considers that his appeal should not have been struck out;
- (b) the representations are made in writing within one month of the order to strike out the appeal being issued; and
- (c) the clerk is satisfied in the light of those representations that there are reasonable grounds for reinstating the appeal

but if the clerk is not satisfied that there are reasonable grounds for reinstatement a legally qualified panel member shall consider whether the appeal should be reinstated in accordance with paragraph (2).]

[<sup>F654</sup>(2)] A legally qualified panel member may reinstate an appeal which has been struck out in accordance with regulation 46 <sup>F655</sup> ... where—

(a) the appellant has made representations, or as the case may be, further representations in support of his appeal with reasons why he considers that his appeal should not have been struck out, to the clerk to the appeal tribunal, in writing within one month of the order to strike out the appeal being issued, and the panel member is satisfied in the light of those representations that there are reasonable grounds for reinstating the appeal;

<sup>F656</sup>(b) . . . . .

(c) the panel member is satisfied that the appeal is not an appeal which may be struck out under regulation 46; or

(d) the panel member is satisfied that notwithstanding that the appeal is one which may be struck out under regulation 46, it is not in the interests of justice for the appeal to be struck out.]

**Textual Amendments**

- F645** Regs. 39-47 omitted (3.11.2008) by virtue of Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F652** Reg. 47(1) inserted (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379) , regs. 1(1) , **13**
- F653** Word in reg. 47(1) substituted (21.12.2004) by Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368) , regs. 1 , **2(7)(a)**
- F654** Reg. 47(2) reg. 47 re-numbered reg. 47(2) (20.5.2002) by Social Security and Child Support (Decisions and Appeals) (Miscellaneous Amendments) Regulations 2002 (S.I. 2002/1379) , regs. 1(1) , **13**
- F655** Words in reg. 47(2) omitted (21.12.2004) by virtue of Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368) , regs. 1 , **2(7)(b)(i)**
- F656** Reg. 47(2)(b) omitted (21.12.2004) by virtue of Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368) , regs. 1 , **2(7)(b)(ii)**

**Modifications etc. (not altering text)**

- C36** Reg. 47 applied (with modifications) (29.1.2007) by Personal Injuries (NHS Charges) (Reviews and Appeals) (Scotland) Regulations 2006 (S.S.I. 2006/593) , regs. 1(1) , **8** (with reg. 8(4) )
- C37** Reg. 47 applied (mods) (29.1.2007) by Personal Injuries (NHS Charges) (Reviews and Appeals) and Road Traffic (NHS Charges) (Reviews and Appeals) (Amendment) Regulations 2006 (S.I. 2006/3398) , regs. 1(1) , **8**

**Misconceived appeals**

<sup>F657</sup> **48** . . . . .

**Textual Amendments**

- F657** Reg. 48 omitted (21.12.2004) by virtue of Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368) , regs. 1 , **2(8)**

## CHAPTER IV

### ORAL HEARINGS

#### Procedure at oral hearings

**49 .—**<sup>F658</sup>(1) Subject to the following provisions of this Part, the procedure for an oral hearing shall be such as the chairman, or in the case of an appeal tribunal which has only one member, such as that member, shall determine.

(2) Except where paragraph (3) applies, not less than 14 days notice (beginning with the day on which the notice is given and ending on the day before the hearing of the appeal is to take place) of the time and place of any oral hearing of an appeal shall be given to every party to the proceedings, and if such notice has not been given to a person to whom it should have been given under the provisions of this paragraph the hearing may proceed only with the consent of that person.

(3) Any party to the proceedings may waive his right to receive not less than 14 days notice of the time and place of any oral hearing by giving notice to the clerk to the appeal tribunal.

(4) If a party to the proceedings to whom notice has been given under paragraph (2) fails to appear at the hearing the chairman, or in the case of an appeal tribunal which has only one member, that member, may, having regard to all the circumstances including any explanation offered for the absence, proceed with the hearing notwithstanding his absence, or give such directions with a view to the determination of the appeal as he may think proper.

(5) If a party to the proceedings has waived his right to be given notice under paragraph (2) the chairman, or in the case of an appeal tribunal which has only one member, that member, may proceed with the hearing notwithstanding his absence.

<sup>F659</sup>(6) An oral hearing shall be in public except where the chairman, or in the case of an appeal tribunal which has only one member, that member, is satisfied that it is necessary to hold the hearing, or part of the hearing, in private—

- (a) in the interests of national security, morals, public order or children;
- (b) for the protection of the private or family life of one or more parties to the proceedings; or
- (c) in special circumstances, because publicity would prejudice the interests of justice.]

<sup>F660</sup>(7) At an oral hearing—

- (a) any party to the proceedings shall be entitled to be present and be heard; and
- (b) the following persons may be present by means of a live television link—
  - (i) a party to the proceedings or his representative or both; or
  - (ii) where an appeal tribunal consists of more than one member, a tribunal member other than the chairman,

provided that the person who constitutes or is the chairman of the tribunal gives permission  
<sup>F661</sup> ... . ]

(8) A person who has the right to be heard at a hearing may be accompanied and may be represented by another person whether having professional qualifications or not and, for the purposes of the proceedings at the hearing, any such representative shall have all the rights and powers to which the person whom he represents is entitled.

(9) The following persons shall also be entitled to be present at an oral hearing (whether or not it is otherwise in private) but shall take no part in the proceedings—

- (a) the President;
- (b) any person undergoing training as a chairman or <sup>F662</sup> ... member of an appeal tribunal or as a clerk to an appeal tribunal;

- (c) any person acting on behalf of the President in the training or supervision of panel members or in the monitoring of standards of decision-making by panel members;
- (d) with the leave of the chairman, or in the case of an appeal tribunal which has only one member, with the leave of that member, <sup>F663</sup> ... any other person; and
- (e) a member of the Council on Tribunals or of the Scottish Committee of the Council on Tribunals.

<sup>F664</sup>(10) Nothing in paragraph (9) affects the rights of—

- (a) any person mentioned in sub-paragraphs (a) and (b) of that paragraph where he is sitting as a member of a tribunal or acting as its clerk; or
- (b) the clerk to the tribunal,

and nothing in this regulation prevents the presence at an oral hearing of any witness or of any person whom the chairman, or in the case of an appeal tribunal which has only one member, that member, permits to be present in order to assist the appeal tribunal or the clerk.]

(11) Any person entitled to be heard at an oral hearing may address the tribunal, may give evidence, may call witnesses and may put questions directly to any other person called as a witness.

(12) For the purpose of arriving at its decision an appeal tribunal shall, and for the purpose of discussing any question of procedure may, notwithstanding anything contained in these Regulations, order all persons not being members of the tribunal, other than the person acting as clerk to the appeal tribunal, to withdraw from the hearing except that—

- (a) a member of the Council on Tribunals or of the Scottish Committee of the Council on Tribunals, the President or any person mentioned in paragraph (9)(c); and
- (b) with the leave of the chairman, or in the case of an appeal tribunal which has only one member, with the leave of that member, any person mentioned in paragraph (9)(b) or (d),

may remain present at any such sitting.

<sup>F665</sup>(13) In this regulation “live television link” means a live television link or other facilities which allow a person who is not physically present at an oral hearing to see and hear proceedings and be seen and heard by those physically present.]]

#### Textual Amendments

- F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F659** Reg. 49(6) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **14(a)**
- F660** Reg. 49(7) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **14(b)**
- F661** Words in reg. 49(7)(b) omitted (18.3.2005) by virtue of [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(9)**
- F662** Word in reg. 49(9)(b) omitted (20.5.2002) by virtue of [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **14(c)(i)**
- F663** Words in reg. 49(9)(d) omitted (20.5.2002) by virtue of [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **14(c)(ii)**
- F664** Reg. 49(10) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **14(d)**
- F665** Reg. 49(13) added (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **14(e)**

*Changes to legislation: There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)*

**Modifications etc. (not altering text)**

- C38** Reg. 49 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**
- C39** Reg. 49 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , regs. 1(1) , **8** (with reg. 8(4) )

**Manner of providing expert assistance**

<sup>F658</sup> **50** . . . . .

**Textual Amendments**

- F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )

**Postponement and adjournment**

**51** .—<sup>F658</sup>(1) Where a person to whom notice of an oral hearing is given wishes to request a postponement of that hearing he shall do so in writing to the clerk to the appeal tribunal stating his reasons for the request, and the clerk to the appeal tribunal may grant or refuse the request as he thinks fit or may pass the request to a legally qualified panel member who may grant or refuse the request as he thinks fit.

(2) Where the clerk to the appeal tribunal or the panel member, as the case may be, refuses a request to postpone the hearing he shall—

- (a) notify in writing the person making the request of the refusal; and
- (b) place before the appeal tribunal at the hearing both the request for the postponement and notification of its refusal.

(3) A panel member or the clerk to the appeal tribunal may of his own motion at any time before the beginning of the hearing postpone the hearing.

(4) An oral hearing may be adjourned by the appeal tribunal at any time on the application of any party to the proceedings or of its own motion.

<sup>F666</sup>( 5 ) . . . . .]

**Textual Amendments**

- F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F666** Reg. 51(5) omitted (20.5.2002) by virtue of [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **15**

**Modifications etc. (not altering text)**

- C40** Reg. 51 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**

**C41** Reg. 51 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , regs. 1(1) , **8** (with reg. 8(4) )

## Physical examinations at oral hearings

<sup>F658</sup> **52** . . . . .

### Textual Amendments

**F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )

## CHAPTER V

### DECISIONS OF APPEAL TRIBUNALS AND RELATED MATTERS

#### APPEAL TRIBUNAL DECISIONS

#### Decisions of appeal tribunals

**53** .—<sup>F658</sup>(1) Every decision of an appeal tribunal shall be recorded in summary by the chairman, or in the case of an appeal tribunal which has only one member, by that member.

(2) The decision notice specified in paragraph (1) shall be in such written form as shall have been approved by the President and shall be signed by the chairman, or in the case of an appeal tribunal which has only one member, by that member.

(3) As soon as may be practicable after an appeal or referral has been decided by an appeal tribunal, a copy of the decision notice <sup>F667</sup> ... shall be sent or given to every party to the proceedings who shall also be informed of—

(a) his right under paragraph (4); and

<sup>F668</sup>(b) except in the case of an appeal under the Vaccine Damage Payments Act, the conditions governing appeals to a Commissioner.]

<sup>F669</sup>(4) [<sup>F670</sup>Subject to paragraph (4A),] a party to the proceedings may apply in writing to the clerk to the appeal tribunal for a statement of the reasons for the tribunal's decision within one month of the sending or giving of the decision notice to every party to the proceedings or within such longer period as may be allowed in accordance with regulation 54 and following that application the chairman, or in the case of a tribunal with only one member, that member shall record a statement of the reasons and a copy of that statement shall be given to every party to the proceedings as soon as may be practicable.]

<sup>F671</sup>(4A) Where—

(a) the decision notice is corrected in accordance with regulation 56; or

(b) an application under regulation 57 for the decision to be set aside is refused for reasons other than a refusal to extend the time for making the application,

the period specified in paragraph (4) shall run from the date on which notice of the correction or the refusal of the application for setting aside is sent to the applicant.]

(5) If the decision is not unanimous, the decision notice specified in paragraph (1) shall record that one of the members dissented and the statement of reasons referred to in paragraph (4) shall include the reasons given by the dissenting member for dissenting.]

### Textual Amendments

- F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F667** Words in reg. 53(3) omitted (18.3.2005) by virtue of [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(10)(a)**
- F668** Reg. 53(3)(b) substituted (18.10.1999) by [The Social Security and Child Support \(Decisions and Appeals\), Vaccine Damage Payments and Jobseeker's Allowance \(Amendment\) Regulations 1999 \(S.I. 1999/2677\)](#) , regs. 1 , **10**
- F669** Reg. 53(4) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **16**
- F670** Words in reg. 53(4) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(10)(b)**
- F671** Reg. 53(4A) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(10)(c)**

### Modifications etc. (not altering text)

- C42** Reg. 53 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , regs. 1(1) , **8** (with reg. 8(4) )
- C43** Reg. 53 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**

### Late applications for a statement of reasons of tribunal decision

**54** .—<sup>F658</sup>(1) The time for making an application for <sup>F672</sup>... the statement of the reasons for a tribunal's decision may be extended where the conditions specified in paragraphs (2) to (8) are satisfied, but <sup>F673</sup>, subject to <sup>F674</sup>regulation 53(4A) ] , ] no application shall in any event be brought more than three months after the date of the sending or giving of the notice of the decision of the appeal tribunal.

(2) An application for an extension of time under this regulation shall be made in writing and shall be determined by a legally qualified panel member.

(3) An application under this regulation shall contain particulars of the grounds on which the extension of time is sought, including details of any relevant special circumstances for the purposes of paragraph (4).

(4) The application for an extension of time shall not be granted unless the panel member is satisfied that it is in the interests of justice for the application to be granted.

(5) For the purposes of paragraph (4) it is not in the interests of justice to grant the application unless the panel member is satisfied that—

- (a) the special circumstances specified in paragraph (6) are relevant to the application; or
- (b) some other special circumstances are relevant to the application,

and as a result of those special circumstances it was not practicable for the application to be made within the time limit specified in regulation 53(4).

(6) For the purposes of paragraph (5)(a), the special circumstances are that—

- (a) the applicant or a <sup>F675</sup>partner] or dependant of the applicant has died or suffered serious illness;
- (b) the applicant is not resident in the United Kingdom; or



(c) normal postal services were adversely disrupted.

(7) In determining whether it is in the interests of justice to grant the application, the panel member shall have regard to the principle that the greater the amount of time that has elapsed between the expiration of the time within which the application for a copy of the statement of reasons for a tribunal’s decision is to be made and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

(8) In determining whether it is in the interests of justice to grant the application, no account shall be taken of the following—

- (a) that the person making the application or any person acting for him was unaware of, or misunderstood, the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that a Commissioner or a court has taken a different view of the law from that previously understood and applied.

(9) An application under this regulation for an extension of time which has been refused may not be renewed.

(10) The panel member who determines the application shall record a summary of his [F676determination] in such written form as has been approved by the President.

(11) As soon as practicable after the [F676determination] is made [F677notice] of the decision shall be sent or given to every party to the proceedings.

(12) Any person who under paragraph (11) receives [F678notice] of the [F676determination] may, within one month of the decision being sent to him, apply in writing for a copy of the reasons for that decision and a copy shall be supplied to him.

F679( 13 ) . . . . . ]

**Textual Amendments**

- F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F672** Words in reg. 54(1) omitted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#) , **regs. 1** , 29(a)
- F673** Words in reg. 54(1) inserted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#) , **regs. 1** , 29(b)
- F674** Words in reg. 54(1) substituted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , reg. 1 , **2(11)(a)**
- F675** Word in reg. 54(6)(a) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , reg. 1(1) , **17(a)**
- F676** Word in reg. 54(10) (11) (12) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , reg. 1(1) , **17(b)**
- F677** Word in reg. 54(11) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , reg. 1(1) , **17(c)**
- F678** Word in reg. 54(12) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , reg. 1(1) , **17(d)**
- F679** Reg. 54(13) omitted (18.3.2005) by virtue of [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , reg. 1 , **2(11)(b)**

**Modifications etc. (not altering text)**

- C44** Reg. 54 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , reg. 1(1) , **8** (with reg. 8(4) )

**C45** Reg. 54 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**

### Record of tribunal proceedings

**55** .—<sup>F658</sup>(1) A record of the proceedings at an oral hearing, which is sufficient to indicate the evidence taken, shall be made by the chairman, or in the case of an appeal tribunal which has only one member, by that member, in such medium as he may direct.

<sup>F680</sup>(2) The clerk to the appeal tribunal shall preserve—

- (a) the record of proceedings;
- (b) the decision notice; and
- (c) any statement of the reasons for the tribunal’s decision,

for the period specified in paragraph (3).

(3) That period is six months from the date of—

- (a) the decision made by the appeal tribunal;
- (b) any statement of reasons for the tribunal’s decision;
- (c) any correction of the decision in accordance with regulation 56;
- (d) any refusal to set aside the decision in accordance with regulation 57; or
- (e) any determination of an application under regulation 58 for leave to appeal against the decision,

or until the date on which those documents are sent to the office of the Social Security and Child Support Commissioners in connection with an appeal against the decision or an application to a Commissioner for leave to appeal, if that occurs within the six months.

(4) Any party to the proceedings may within the time specified in paragraph (3) apply in writing for a copy of the record of proceedings and a copy shall be supplied to him.]]

#### Textual Amendments

**F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )

**F680** Reg. 55(2)-(4) substituted for reg. 55(2) (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(12)**

#### Modifications etc. (not altering text)

**C46** Reg. 55 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**

**C47** Reg. 55 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , regs. 1(1) , **8** (with reg. 8(4) )

### Correction of accidental errors

**56** .—<sup>F658</sup>(1) The clerk to the appeal tribunal [<sup>F681</sup>or a legally qualified panel member] that member, may at any time correct accidental errors in [<sup>F682</sup>the notice of any decision] of an appeal

tribunal made under a relevant enactment, the Child Support Act or the Vaccine Damage Payments Act.

[<sup>F683</sup>(2) A correction made to a decision notice shall be deemed to be part of the decision notice and written notice of the correction shall be given as soon as practicable to every party to the proceedings.]

(3) In this regulation and regulation 57, “relevant enactment” has the same meaning as in section 28(3).]

#### Textual Amendments

- F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F681** Words in reg. 56(1) substituted (19.6.2000) by [The Social Security and Child Support\(Miscellaneous Amendments\) Regulations 2000 \( S.I. 2000/1596 \)](#) , regs. 1, 30
- F682** Words in reg. 56(1) substituted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(13)(a)**
- F683** Reg. 56(2) substituted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(13)(b)**

#### Modifications etc. (not altering text)

- C48** Reg. 56 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , regs. 1(1) , **8** (with reg. 8(4) )
- C49** Reg. 56 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**

#### Setting aside decisions on certain grounds

**57 .—**[<sup>F658</sup>(1) On an application made by a party to the proceedings, a decision of an appeal tribunal made under a relevant enactment, the Child Support Act or the Vaccine Damage Payments Act, may be set aside by a legally qualified panel member in a case where it appears just to set the decision aside on the ground that—

- (a) a document relating to the proceedings in which the decision was made was not sent to, or was not received at an appropriate time by, a party to the proceedings or the party’s representative or was not received at an appropriate time by the person who made the decision;
- (b) a party to the proceedings in which the decision was made or the party’s representative was not present at a hearing relating to the proceedings.

(2) In determining whether it is just to set aside a decision on the ground set out in paragraph (1) (b), the panel member shall determine whether the party making the application gave notice that he wished to have an oral hearing, and if that party did not give such notice the decision shall not be set aside unless <sup>F684</sup> ... that member is satisfied that the interests of justice manifestly so require.

[<sup>F685</sup>(3) An application under this regulation shall—

- (a) be made within one month of the date on which—
  - (i) a copy of the decision notice is sent or given to the parties to the proceedings in accordance with regulation 53(3); or
  - (ii) the statement of the reasons for the decision is given or sent in accordance with regulation 53(4),

whichever is later;

- (b) be in writing and signed by a party to the proceedings or, where the party has provided written authority to a representative to act on his behalf, that representative;
- (c) contain particulars of the grounds on which it is made; and
- (d) be sent to the clerk to the appeal tribunal.]

(4) Where an application to set aside a decision is entertained under paragraph (1), every party to the proceedings shall be sent a copy of the application and shall be afforded a reasonable opportunity of making representations on it before the application is determined.

[<sup>F686</sup>(4A) Where a legally qualified panel member refuses to set aside a decision he may treat the application to set aside the decision as an application under regulation 53(4) for a statement of the reasons for the tribunal's decision, subject to the time limits set out in regulation 53(4) and (4A).]

(5) Notice in writing of a determination on an application to set aside a decision shall be sent or given to every party to the proceedings as soon as may be practicable and the notice shall contain a statement giving the reasons for the determination.

[<sup>F687</sup>(6) The time within which an application under this regulation must be made may be extended by a period not exceeding one year where the conditions specified in paragraphs (7) to (11) are satisfied.

(7) An application for an extension of time shall be made in accordance with paragraph (3)(b) to (d), shall include details of any relevant special circumstances for the purposes of paragraph (9) and shall be determined by a legally qualified panel member.

(8) An application for an extension of time shall not be granted unless the panel member is satisfied that—

- (a) if the application is granted there are reasonable prospects that the application to set aside will be successful; and
- (b) it is in the interests of justice for the application for an extension of time to be granted.

(9) For the purposes of paragraph (8) it is not in the interests of justice to grant an application for an extension of time unless the panel member is satisfied that—

- (a) the special circumstances specified in paragraph (10) are relevant to that application; or
- (b) some other special circumstances exist which are wholly exceptional and relevant to that application,

and as a result of those special circumstances, it was not practicable for the application to set aside to be made within the time limit specified in paragraph (3)(a).

(10) For the purposes of paragraph (9)(a) the special circumstances are that—

- (a) the applicant or a partner or dependant of the applicant has died or suffered serious illness;
- (b) the applicant is not resident in the United Kingdom; or
- (c) normal postal services were disrupted.

(11) In determining whether it is in the interests of justice to grant an application for an extension of time, the panel member shall have regard to the principle that the greater the amount of time that has elapsed between the expiry of the time within which the application to set aside is to be made and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application for an extension is based.

(12) An application under this regulation for an extension of time which has been refused may not be renewed.]]

**Textual Amendments**

- F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F684** Words in reg. 57(2) omitted (20.5.2002) by virtue of [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **18(a)**
- F685** Reg. 57(3) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **18(b)**
- F686** Reg. 57(4A) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(14)**
- F687** Reg. 57(6)-(12) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **18(c)**

**Modifications etc. (not altering text)**

- C50** Reg. 57 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , regs. 1(1) , **8** (with reg. 8(4) )
- C51** Reg. 57 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**

**[<sup>F688</sup>[<sup>F689</sup>Provisions common to regulations 56 and 57**

**57A.**—<sup>F690</sup>[<sup>F658</sup>( 1 ) . . . . .

- (2) There shall be no appeal against a correction made under regulation 56 or a refusal to make such a correction or against a determination made under regulation 57.
- (3) Nothing in this Chapter shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from these Regulations.]]]

**Textual Amendments**

- F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F688** Reg. 57A - Reg. 57B inserted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#) , regs. 1(1) , **32**
- F689** Reg. 57A substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **19**
- F690** Reg. 57A(1) omitted (18.3.2005) by virtue of [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(15)**

**[<sup>F691</sup>Service of decision notice by electronic mail**

**57AA.** [<sup>F658</sup>For the purposes of the time limits in regulations 53 to 57, a properly addressed copy of a decision notice sent by electronic mail is effective from the date it is sent.]]

### Textual Amendments

- F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F691** Reg. 57AA inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(16)**

### [<sup>F692</sup> Interpretation of Chapter V

- 57B.**—[<sup>F658</sup>(1) In Chapter V, except in regulations 58 and 58A—  
“Commissioner” includes Child Support Commissioner;  
“decision” includes a determination on a referral.  
(2) In Chapter V—  
“decision notice” has the meaning given in regulation 53(1) and (2).]]

### Textual Amendments

- F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F692** Reg. 57B substituted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(17)**

## *APPLICATIONS FOR LEAVE TO APPEAL TO A COMMISSIONER (NOT INCLUDING CHILD SUPPORT)*

### Application for leave to appeal to a Commissioner from an appeal tribunal

**58** .—[<sup>F658</sup>(1) [<sup>F693</sup>Subject to paragraph (1A),] an application for leave to appeal to a Commissioner from a decision of an appeal tribunal under [<sup>F694</sup>section 13 of the 1997 Act or under] section 12 or 13 shall—

- (a) be [<sup>F695</sup>sent to the clerk to the appeal tribunal within the period of one month of the date of the applicant being sent] a written statement of the reasons for the decision against which leave to appeal is sought; and
- [<sup>F696</sup>(b) be in writing and signed by the applicant or, where he has given written authority to a representative to make the application on his behalf, by that representative;
- (c) contain particulars of the grounds on which the applicant intends to rely;
- (d) contain sufficient particulars of the decision of the appeal tribunal to enable the decision to be identified; and
- (e) if the application is made late, contain the grounds for seeking late acceptance.]

[<sup>F697</sup>(1A) Where after the written statement of the reasons for the decision has been sent to the parties to the proceedings—

- (a) the decision notice is corrected in accordance with regulation 56; or
- (b) an application under regulation 57 for the decision to be set aside is refused for reasons other than a refusal to extend the time for making the application,

the period specified in paragraph (1)(a) shall run from the date on which notice of the correction or the refusal of the application for setting aside is sent to the applicant.]

(2) Where an application for leave to appeal to a Commissioner is made by the Secretary of State [<sup>F698</sup>or the Board], the clerk to an appeal tribunal shall, as soon as may be practicable, send a copy of the application to every other party to the proceedings.

<sup>F699</sup>(3) . . . . .

[<sup>F700</sup>(4) A person determining an application for leave to appeal to a Commissioner shall record his determination in writing and send a copy to every party to the proceedings.]

(5) Where there has been a failure to apply for leave to appeal within the period of time specified in paragraph (1)(a) [<sup>F701</sup>or (1A)] but an application is made within one year of the last date for making an application within that period, a legally qualified panel member may, if for special reasons he thinks fit, accept and proceed to consider and determine the application.

[<sup>F702</sup>(6) Where an application for leave to appeal against a decision of an appeal tribunal is made—

- (a) if the person who constituted, or was the chairman of, the appeal tribunal when the decision was given was a fee-paid legally qualified panel member, the application may be determined by a salaried legally qualified panel member; or
- (b) if it is impracticable, or it would be likely to cause undue delay, for the application to be determined by whoever constituted, or was the chairman of, the appeal tribunal when the decision was given, the application may be determined by another legally qualified panel member.]]

**Textual Amendments**

- F658** Regs. 49-58 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 126** (with arts. 3(2)(c) , 4 )
- F693** Words in reg. 58(1) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(18)(a)(i)**
- F694** Words in reg. 58(1) inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **20(a)(ii)**
- F695** Words in reg. 58(1)(a) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **20(a)(ii)**
- F696** Reg. 58(1)(b)-(e) substituted for reg. 58(1)(b) (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(18)(a)(ii)**
- F697** Reg. 58(1A) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(18)(b)**
- F698** Words in reg. 58(2) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Decisions and Appeals\) \(Amendment\) Regulations 1999 \(S.I. 1999/2570\)](#) , regs. 1 , **27**
- F699** Reg. 58(3) omitted (20.5.2002) by virtue of [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **20(b)**
- F700** Reg. 58(4) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **20(c)**
- F701** Words in reg. 58(5) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(18)(c)**
- F702** Reg. 58(6) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **20(d)**

#### Modifications etc. (not altering text)

- C52** Reg. 58 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#) , regs. 1(1) , **8**
- C53** Reg. 58 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#) , regs. 1(1) , **8** (with reg. 8(4) )

#### [<sup>F703</sup>Appeal to [<sup>F704</sup>the Upper Tribunal] by a partner

**58A.** A partner within the meaning of section 2AA(7) of the Administration Act (full entitlement to certain benefits conditional on work-focused interview for partner) may appeal to [<sup>F705</sup>the Upper Tribunal] under section 14 from a decision of [<sup>F706</sup>the First-tier Tribunal] in respect of a decision specified in section 2B(2A) and (6) of the Administration Act . ]

#### Textual Amendments

- F703** Reg. 58A inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#) , regs. 1 , **2(19)**
- F704** Words in reg. 58A heading substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 127(a)**
- F705** Words in reg. 58A substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 127(a)**
- F706** Words in reg. 58A substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#) , art. 1 , **Sch. 1 para. 127(b)**

## PART VI REVOCATIONS

### Revocations

**59.**—(1) The Regulations listed in column (2) of Schedule 4 are hereby revoked to the extent specified in column (3) of that Schedule.

(2) Notwithstanding their revocation for particular purposes, the Regulations listed in column (2) of Schedule 4 shall continue to have full effect up to and including 28th November 1999 in relation to any benefit to which these Regulations do not apply for the time being by virtue of regulation 1(2).

(3) So much of any document as refers expressly or by implication to any regulation revoked by paragraph (1) shall, in so far as the context permits, for the purposes of these Regulations be treated as referring to the corresponding provision of these Regulations.

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

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



I concur

*Irvine of Lairg*  
Lord Chancellor

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)

## SCHEDULE 1

### Provisions conferring powers exercised in making these Regulations

<b>Column (1) Provision</b>		<b>Column (2) Relevant Amendments</b>
Vaccine Damage Payments Act 1979 M30	Section 4(2) and (3)	The Act, Section 46.
	Section 7A(1)	The Act, Section 47.
Child Support Act 1991 M31	Section 16(6)	The Act, Section 40.
	Section 20(5) and (6)	The Act, Section 42.
	Section 28ZA(2)(b) and (4)(c)	The Act, Section 43.
	Section 28ZB(6)(c)	The Act, Section 43.
	Section 28ZC(7)	The Act, Section 44.
	Section 28ZD(1) and (2)	The Act, Section 44.
	Section 46B	The Act, Schedule 7, paragraph 44.
	Section 51(2)	The Act, Schedule 7, paragraph 46.
	Schedule 4A, paragraph 8	The Act, Schedule 7, paragraph 53.
Social Security Administration Act 1992 M32	Section 5(1)(hh)	The Act, Section 74.
	Section 159	The Act, Schedule 7, paragraph 95.
	Section 159A	The Act, Schedule 7, paragraph 96.
Pension Schemes Act 1993 M33	Section 170(3)	The Act, Schedule 7, paragraph 131.
Social Security (Recovery of Benefits) Act 1997 M34	Section 10	The Act, Schedule 7, paragraph 149.
	Section 11(5)	
Social Security Act 1998 M35	Section 6(3)	
	Section 7(6)	
	Section 9(1), (4) and (6)	
	Section 10(3) and (6)	

Section 11(1)  
Section 12(2) and (3), (6) and (7)  
Section 14(10)(a) and (11)  
Section 16(1) and Schedule 5  
Section 17  
Section 18(1)  
Section 20  
Section 21(1) to (3)  
Section 22  
Section 23  
Section 24  
Section 25(3)(b) and (5)(c)  
Section 26(6)(c)  
Section 28(1)  
Section 31(2)  
Section 79(1) and (3) to (7)  
Section 84  
Schedule 1, paragraphs 7, 11 and 12  
Schedule 2, paragraph 9  
Schedule 3, paragraphs 1, 4 and 9

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#### Marginal Citations

**M30** 1979 c.17 .  
**M31** 1991 c.48 .  
**M32** 1992 c.5 .  
**M33** 1993 c.48 .  
**M34** 1997 c.27 .  
**M35** 1998 c.14 .

**F707** SCHEDULE 2

Regulation 27

Decisions against which no appeal lies

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#### Textual Amendments

**F707** Sch. 2 revoked (7.4.2003 for specified purposes and with effect in accordance with reg. 1(2)) by The Child Benefit and Guardian s Allowance (Decisions and Appeals) Regulations 2003 (S.I. 2003/916), regs. 1(1), **34(a)** (with reg. 35)

*Changes to legislation: There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)*

### Child Benefit

- 1. A decision of the Secretary of State as to whether an educational establishment be recognised for the purposes of Part IX of the Contributions and Benefits Act.
- 2. A decision of the Secretary of State to recognise education provided otherwise than at a recognised educational establishment.
- 3. A decision of the Secretary of State made in accordance with the discretion conferred upon him by the following provisions of the Child Benefit (Residence and Persons Abroad) Regulations 1976 <sup>M36</sup> —
  - (a) regulation 2(2)(c)(iii) (decision relating to a child’s temporary absence abroad);
  - (b) regulation 7(3) (certain days of absence abroad disregarded).

**Marginal Citations**  
**M36** [S.I. 1976/963](#) ; the relevant amending instrument is [S.I. 1976/1758](#) .

- 4. A decision of the Secretary of State made in accordance with the discretion conferred upon him by regulation 2(1) or (3) of the Child Benefit (General) Regulations 1976 <sup>M37</sup> (provisions relating to contributions and expenses in respect of a child).

**Marginal Citations**  
**M37** [S.I. 1976/965](#) ; the relevant amending instrument is [S.I. 1976/1758](#) .

### Claims and Payments

- <sup>F708</sup>5. A decision, being a decision of the Secretary of State unless specified below as a decision of the Board, under the following provisions of the Claims and Payments Regulations—
  - (a) [<sup>F709</sup>regulation 4(3) or (3B) (which partner should make a claim for income support or jobseeker’s allowance);]
  - <sup>F710</sup>(aa) regulation 4I (which partner should make a claim for an employment and support allowance);]
  - <sup>F711</sup>(b) .....
  - <sup>F712</sup>[<sup>F713</sup>(bb) regulation 4D(7) (which partner should make a claim for state pension credit);]
  - <sup>F714</sup>(c) .....
  - <sup>F715</sup>(d) .....
  - <sup>F716</sup>(e) .....
  - (f) regulation 7 (decision by the Secretary of State or the Board as to evidence and information required);
  - (g) regulation 9 and Schedule 1 (decision by the Secretary of State or the Board as to interchange of claims with claims for other benefits);
  - (h) regulation 11 (treating claim for maternity allowance as claim for incapacity benefit [<sup>F717</sup>or employment and support allowance]);
  - (i) regulation 15(7) (approving form of particulars required for determination of retirement pension questions in advance of claim);

- (j) regulations 20 to 24 (decision by the Secretary of State or the Board as to the time or manner of payments);
- (k) regulation 25(1) (intervals of payment of attendance allowance and disability living allowance where claimant is expected to return to hospital);
- (l) regulation 26 (manner and time of payment of income support);
- (m) regulation 26A (time and intervals of payment of jobseeker's allowance);
- [<sup>F718</sup>(mm) regulation 26B (payment of state pension credit);]
- [<sup>F719</sup>(mn) regulation 26C (manner and time of payment of employment and support allowance);]
- (n) regulation 27(1) and (1A) (decision by the Board as to manner and time of payment of tax credits);
- (o) regulation 30 (decision by the Secretary of State or the Board as to claims or payments after death of claimant);
- (p) regulation 30A (payment of arrears of joint-claim jobseeker's allowance where nominated person can no longer be traced);
- (q) regulation 31 (time and manner of payments of industrial injuries gratuities);
- (r) regulation 32 (decision by the Secretary of State or the Board as to information to be given when obtaining payment of benefit);
- (s) regulation 33 (appointments by the Secretary of State or the Board where person unable to act);
- (t) regulation 34 (decision by the Secretary of State or the Board as to paying another person on the beneficiary's behalf);
- (u) [<sup>F720</sup>regulation 17(1) (direct payments to qualifying lenders by Secretary of State where specified circumstances met) of the Loans for Mortgage Interest Regulations;]
- (v) regulation 35(2) (payment to third person of maternity expenses or expenses for heating in cold weather);
- (w) regulation 36 (decision by the Secretary of State or the Board to pay partner as alternative payee);
- (x) regulation 38 (decision by the Secretary of State or the Board as to the extinguishment of right to payment of sums by way of benefit where payment not obtained within the prescribed period, except a decision under paragraph (2A) (payment request after expiration of prescribed period));
- (y) regulations 42 to 46 (mobility component of disability living allowance and disability living allowance for children);
- (z) regulation 47(2) and (3) (return of instruments of payment etc. to the Secretary of State or the Board).]

#### Textual Amendments

- F708** Sch. 2 para. 5 substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **21(a)**
- F709** Sch. 2 para. 5(a) substituted (21.12.2004) by [Social Security, Child Support and Tax Credits \(Decisions and Appeals\) Amendment Regulations 2004 \(S.I. 2004/3368\)](#), regs. 1, **2(9)(a)**
- F710** Sch. 2 para. 5(aa) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **42(a)**
- F711** Sch. 2 para. 5(b) omitted (21.12.2004) by virtue of [Social Security, Child Support and Tax Credits \(Decisions and Appeals\) Amendment Regulations 2004 \(S.I. 2004/3368\)](#), regs. 1, **2(9)(b)**

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)

- F712** Sch. 2 para. 5(bb) substituted (21.12.2004) by Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368), regs. 1, **2(9)(c)**
- F713** Sch. 2 para. 5(bb) inserted (18.6.2003) by State Pension Credit (Decisions and Appeals-Amendments) Regulations 2003 (S.I. 2003/1581), regs. 1, **2(a)**
- F714** Sch. 2 para. 5(c) omitted (21.12.2004) by virtue of Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368), regs. 1, **2(9)(b)**
- F715** Sch. 2 para. 5(d) omitted (21.12.2004) by virtue of Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368), regs. 1, **2(9)(b)**
- F716** Sch. 2 para. 5(e) omitted (21.12.2004) by virtue of Social Security, Child Support and Tax Credits (Decisions and Appeals) Amendment Regulations 2004 (S.I. 2004/3368), regs. 1, **2(9)(b)**
- F717** Words in Sch. 2 para. 5(h) added (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **42(b)**
- F718** Sch. 2 para. 5(mm) inserted (18.6.2003) by State Pension Credit (Decisions and Appeals-Amendments) Regulations 2003 (S.I. 2003/1581), regs. 1, **2(b)**
- F719** Sch. 2 para. 5(mn) inserted (27.7.2008) by Employment and Support Allowance (Consequential Provisions) (No.2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(a), **42(c)**
- F720** Sch. 2 para. 5(u) substituted by S.I. 2017/725, Sch. 5 para. 11(5) (as inserted) (6.4.2018) by The Loans for Mortgage Interest and Social Fund Maternity Grant (Amendment) Regulations 2018 (S.I. 2018/307), regs. 1(2), **2(18)(e)**

*[<sup>F721</sup>Schemes that were Contracted-out Pension Schemes]*

**Textual Amendments**

- F721** Heading to Sch. 2 para. 6 substituted (6.4.2016) by The Pensions Act 2014 (Abolition of Contracting-out for Salary Related Pension Schemes) (Consequential Amendments and Savings) Order 2016 (S.I. 2016/200), arts. 1(2), **15**

**6.** A decision of the Secretary of State under section 109 of the Pension Schemes Act 1993 <sup>M38</sup> or any Order made under it (annual increase of guaranteed minimum pensions).

**Marginal Citations**

- M38** 1993 c.48.

*Decisions depending on other cases*

**7.** A decision of the Secretary of State under section 25 or 26 (decisions and appeals depending on other cases).

*Deductions*

**8.** A decision which falls to be made by the Secretary of State under the Fines (Deductions from Income Support) Regulations 1992 <sup>M39</sup>, other than [<sup>F722</sup> a decision whether benefit is sufficient for a deduction to be made ] .

**Textual Amendments**

- F722** Words in Sch. 2 para. 8 substituted (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), art. 3(1)(a), **Sch. 19 para. 2** (with art. 3(1)(b), Schs. 21-23)

**Marginal Citations**

**M39** [S.I. 1992/2182](#) .

9.—(1) Except in relation to a decision to which sub-paragraph (2) applies, any decision of the Secretary of State under the Community Charges (Deductions from Income Support) (No.2) Regulations 1990 <sup>M40</sup> , the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989 <sup>M41</sup> or the Council Tax (Deductions from Income Support) Regulations 1993 <sup>M42</sup> .

(2) This sub-paragraph applies to a decision—

- (a) whether there is an outstanding sum due of the amount sought to be deducted;
- (b) whether benefit is sufficient for a deduction to be made; and
- (c) on the priority to be given to any deduction.

**Marginal Citations**

**M40** [S.I. 1990/545](#) .

**M41** [S.I. 1989/507](#) .

**M42** [S.I. 1993/494](#) .

*European Community Regulations*

10. An authorization given by the Secretary of State in accordance with article 22(1) or 55(1) of Council Regulation ( EEC ) No. 1408/71 <sup>M43</sup> [ <sup>F723</sup> , as amended from time to time, ] on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community.

**Textual Amendments**

**F723** Words in Sch. 2 para. 10 inserted (15.11.2018) by [The Social Security \(Updating of EU References\) \(Amendment\) Regulations 2018 \(S.I. 2018/1084\)](#), reg. 1, Sch. para. 8(2)(3)

**Marginal Citations**

**M43** See Council Regulation (EEC) No. 1408/71, O.J. No. L149/2, 5.7.71 (O.J./S.E. 1971(II) page 416).

*Expenses*

11. A decision of the Secretary of State whether to pay expenses to any person under section 180 of the Administration Act.

*Guardian's Allowance*

12. A decision of the Secretary of State relating to the giving of a notice under regulation 5(8) of the Social Security (Guardian's Allowance) Regulations 1975 <sup>M44</sup> (children whose surviving parents are in prison or legal custody).

**Marginal Citations**

**M44** [S.I. 1975/515](#) .

*Income Support*

**13.** A decision of the Secretary of State <sup>F724</sup> ... made in accordance with paragraph (1) or (2) of regulation 13 (income support and social fund determinations on incomplete evidence).

**Textual Amendments**

**F724** Words in Sch. 2 para. 13 omitted (19.6.2000) by virtue of [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#) , regs. 1(1) , **34(b)**

*[<sup>F725</sup>State pension credit***Textual Amendments**

**F725** Sch. 2 para. 13A and cross-heading inserted (7.4.2003) by [State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(a), **21**

**13A.** A decision of the Secretary of State made in accordance with paragraph (1) or (3) of regulation 13 in relation to state pension credit (determination on incomplete evidence).]

*Industrial Injuries Benefit*

**14.** A decision of the Secretary of State relating to the question whether—

- (a) disablement pension be increased under section 104 of the Contributions and Benefits Act (constant attendance); or
- (b) disablement pension be further increased under section 105 of the Contributions and Benefits Act (exceptionally severe disablement);

and if an increase is to be granted or renewed, the period for which and the amount at which it is payable.

**15.** A decision of the Secretary of State under regulation 2(2) of the Social Security (Industrial Injuries and Diseases) Miscellaneous Provisions Regulations 1986 <sup>M45</sup> as to the length of any period of interruption of education which is to be disregarded.

**Marginal Citations**

**M45** [S.I. 1986/1561](#) .

**16.** A decision of the Secretary of State to approve or not to approve a person undertaking work for the purposes of regulation 17 of the Social Security (General Benefit) Regulations 1982 <sup>M46</sup> .

**Marginal Citations**

**M46** [S.I. 1982/1408](#) ; the relevant amending instruments are [S.I. 1983/186](#) and [S.I. 1986/1561](#) .

**17.** A decision of the Secretary of State as to how the limitations under Part VI of Schedule 7 to the Contributions and Benefits Act on the benefit payable in respect of any death are to be applied in the circumstances of any case.



**Changes to legislation:** There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)

### *Invalid Vehicle Scheme*

**18.** A decision of the Secretary of State relating to the issue of certificates under regulation 13 of, and Schedule 2 to, the Social Security (Disability Living Allowance) Regulations 1991 <sup>M47</sup> .

#### **Marginal Citations**

**M47** S.I. 1991/2890 .

### *Jobseeker's Allowance*

**19.—(1)** A decision of the Secretary of State under Chapter IV of Part II of the Jobseeker's Allowance Regulations as to the day and the time a claimant is to attend at a job centre.

(2) A decision of the Secretary of State as to the day of the week on which a claimant is required to provide a signed declaration under regulation 24(10) of the Jobseeker's Allowance Regulations.

(3) A decision of the Secretary of State <sup>F726</sup> ... made in accordance with regulation 15 (Jobseeker's allowance determinations on incomplete evidence).

#### **Textual Amendments**

**F726** Words in Sch. 2 para. 19(3) omitted (19.6.2000) by virtue of [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#) , regs. 1(1) , **34(c)**

*[<sup>F727</sup>Loss of Benefit for Breach of Community Order]*

#### **Textual Amendments**

**F727** and cross-heading inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **21(b)**

<sup>F728</sup>**19A.** . . . . .

#### **Textual Amendments**

**F728** Sch. 2 para. 19A omitted (for specified purposes and with effect in accordance with reg. 1(3) of the amending S.I.) by virtue of [Welfare Reform Act 2009 \(Section 26\) \(Consequential Amendments\) Regulations 2010 \(S.I. 2010/424\)](#) , **reg. 4(6)**

### *Payments on Account, Overpayments and Recovery*

**20.** A decision of the Secretary of State under the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 <sup>M48</sup> , except a decision of the Secretary of State under the following provisions of those Regulations—

- (a) [<sup>F729</sup>regulation 3(1)(a) to offset any interim payment made in anticipation of an award of benefit;]
- (b) [<sup>F729</sup>regulation 4(1) as to the overpayment of an interim payment;]
- (c) regulation 5 as to the offsetting of a prior payment against a subsequent award;
- (d) regulation 11(1) as to whether a payment in excess of entitlement has been credited to a bank or other account;

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)

- (e) regulation 13 as to the sums to be deducted in calculating recoverable amounts;
- (f) regulation 14(1) as to the treatment of capital to be reduced;
- (g) regulation 19 determining a claimant's protected earnings; and
- (h) regulation 24 whether a determination as to a claimant's protected earnings is revised or superseded.

#### Textual Amendments

**F729** Sch. 2 para. 20(a)(b) omitted (1.4.2013) by virtue of [The Social Security \(Payments on Account of Benefit\) Regulations 2013 \(S.I. 2013/383\)](#), regs. 1(2)(a), **20(1)(a)** (with reg. 20(2))

#### Marginal Citations

**M48** [S.I. 1988/664](#); the relevant amending instruments are [S.I. 1988/668](#), 1991/2742, 1993/650 and 1996/1345.

[<sup>F730</sup>**20A.** A decision of the Secretary of State under the Social Security (Payments on Account of Benefit) Regulations 2013 except a decision under regulation 10 of those Regulations.]

#### Textual Amendments

**F730** Sch. 2 para. 20A inserted (1.4.2013) by [The Social Security \(Payments on Account of Benefit\) Regulations 2013 \(S.I. 2013/383\)](#), regs. 1(2)(a), **20(1)(b)**

### *Persons Abroad*

- 21.** A decision of the Secretary of State made under—
- (a) regulation 2(1)(a) of the Social Security Benefit (Persons Abroad) Regulations 1975 <sup>M49</sup> whether to certify that it is consistent with the proper administration of the Contributions and Benefits Act that a disqualification under section 113(1)(a) of that Act should not apply;
  - (b) regulation 9(4) or (5) of those Regulations whether to allow a person to avoid disqualification for receiving benefit during a period of temporary absence from Great Britain longer than that specified in the regulation.

#### Marginal Citations

**M49** [S.I. 1975/563](#) ; the relevant amending instruments are [S.I. 1976/409](#) , 1977/342 and 1679, 1979/463 and 1432, 1981/1157, 1982/388 and 1738, 1983/186, 1984/1303, 1986/1545 and 1561, 1988/435, 1989/1642, 1990/40 and 621, 1991/2742, 1992/1700 and 2595, 1994/268 and 1832, 1995/829 and 1996/207 and 1345.

### *Reciprocal Agreements*

**22.** A decision of the Secretary of State made in accordance with an Order made under section 179 of the Administration Act (reciprocal agreements with countries outside the United Kingdom).

### *Social Fund Awards*

**23.** A decision of the Secretary of State under section 78 of the Administration Act relating to the recovery of social fund awards.

### *Suspension*

**24.** A decision of the Secretary of State relating to the suspension of a relevant benefit or to the payment of such a benefit which has been suspended under Part III.

### *Up-rating*

**25.** A decision of the Secretary of State relating to the up-rating of benefits under Part X of the Administration Act.

<sup>[F731]</sup>**26.** Any decision treated as a decision of the Secretary of State whether or not to waive or defer a work-focused interview.]

#### **Textual Amendments**

**F731** Sch. 2 para. 26 added (3.4.2000) by [The Social Security \(Work-focused Interviews\) Regulations 2000 \(S.I. 2000/897\)](#) , reg. 1 , **Sch. 6 para. 7** (with reg. 2(5) )

### <sup>[F732]</sup>*Loss of benefit*

#### **Textual Amendments**

**F732** Sch. 2 para. 27 added (1.4.2002) by [Social Security \(Loss of Benefit\) Regulations 2001 \(S.I. 2001/4022\)](#) , regs. 1(1) , **21**

<sup>[F733]</sup>**27.**—(1) In the circumstances referred to in sub-paragraph (2), a decision of the Secretary of State that a sanctionable benefit as defined in section 6A(1) of the Social Security Fraud Act 2001 is not payable (or is to be reduced) pursuant to section 6B, 7, 8 or 9 of that Act as a result of—

- (a) a conviction for one or more benefit offences in one set of proceedings;
- (b) an agreement to pay a penalty under section 115A of the Administration Act (penalty as alternative to prosecution) or section 109A of the Social Security Administration (Northern Ireland) Act 1992 (the corresponding provision for Northern Ireland) in relation to a benefit offence;
- (c) a caution in respect of one or more benefit offences; or
- (d) a conviction for one or more benefit offences in each of two sets of proceedings, the later offence or offences being committed within the period of 5 years after the date of any of the convictions for a benefit offence in the earlier proceedings.

(2) The circumstances are that the only ground of appeal is that any of the convictions was erroneous, or that the offender (as defined in section 6B(1) of the Social Security Fraud Act 2001) did not commit the benefit offence in respect of which there has been an agreement to pay a penalty or a caution has been accepted.]

#### **Textual Amendments**

**F733** Sch. 2 para. 27 substituted (1.4.2010) by [The Social Security \(Loss of Benefit\) Amendment Regulations 2010 \(S.I. 2010/1160\)](#), regs. 1, **3(5)**

## SCHEDULE 3

Regulations 1(3) and 35

## Qualifications of Persons Appointed to the Panel

**Modifications etc. (not altering text)**

- C54** Sch. 3 applied (mods) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) and Road Traffic \(NHS Charges\) \(Reviews and Appeals\) \(Amendment\) Regulations 2006 \(S.I. 2006/3398\)](#), regs. 1(1), **8**
- C55** Sch. 3 applied (with modifications) (29.1.2007) by [Personal Injuries \(NHS Charges\) \(Reviews and Appeals\) \(Scotland\) Regulations 2006 \(S.S.I. 2006/593\)](#), regs. 1(1), **8** (with reg. 8(4))

*[<sup>F734</sup>Legal Qualifications***Textual Amendments**

- F734** Sch. 3 omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 128** (with arts. 3(2)(d), 4)

**1. Persons who—**

- (a) have a general qualification (construed in accordance with section 71 of the Courts and Legal Services Act 1990 <sup>M50</sup>); or
- (b) are advocates or solicitors in Scotland.

**Marginal Citations**

**M50** 1990 c.41 .

*Medical Qualifications***2. <sup>F735</sup> ... Registered medical practitioners, where—**

- [<sup>F736</sup>(a) the practitioner is a citizen of an EEA state and his name appears on a medical specialist register maintained in an EEA state in accordance with the Medical Directive, or he is a Swiss citizen with equivalent qualifications; or ]
- (b) the practitioner holds a vocational training certificate or a certificate of acquired rights in an EEA State other than the United Kingdom which must in his case be recognised in the United Kingdom by virtue of the Medical Directive (whether or not as read with the EEA Agreement) or by virtue of an enforceable community right; or
- [<sup>F737</sup>(c) the practitioner does not satisfy the requirements of sub-paragraph (a) or (b) above, but has not less than 10 years experience in clinical practice, or as a medical disability analyst in disciplines which are the same or similar to those undertaken by practitioners to whom those sub-paragraphs apply.]

**Textual Amendments**

- F735** Word in Sch. 3 para. 2 omitted (18.3.2005) by virtue of [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(20)(a)(i)**

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)

**F736** Sch. 3 para. 2(a) substituted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(20)(a)(ii)**

**F737** Sch. 3 para. 2(c) substituted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(20)(a)(iii)**

**3.** In paragraph 2 above and in this paragraph—

“EEA Agreement” means the Agreement of the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993<sup>M51</sup> ;

“EEA State” means a state which is a contracting party to the EEA Agreement;

“Medical Directive” means Council Directive [93/16/EEC](#) of 5th April 1993 to facilitate the free movement of doctors and the mutual recognitions of their diplomas, certificates and other evidence of formal qualifications<sup>M52</sup>, as amended by Council Directive [97/50/EC](#) of 6th October 1997<sup>M53</sup><sup>F738</sup>, or any directive which replaces Directive [93/16/EEC](#);

**Textual Amendments**

**F738** Words in Sch. 3 para. 3 added (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(20)(b)**

**Marginal Citations**

**M51** Cm. 2183 and OJ No.L1, 3.1. 1994, p.572.

**M52** OJ. No. L165, 7.7. 1993 page 1.

**M53** OJ. No. L921, 24.10. 1997, page 35.

*Financial Qualifications*

**4.** Accountants who are members of—

(a) the Institute of Chartered Accountants in England and Wales;

(b) the Institute of Chartered Accountants in Scotland;

(c) the Institute of Chartered Accountants in Ireland;

<sup>F739</sup>(cc) the Institute of Certified Public Accountants in Ireland;]

(d) the Association of Chartered Certified Accountants;

(e) the Chartered Institute of Management Accountants; or

(f) the Chartered Institute of Public Finance and Accountancy.

**Textual Amendments**

**F739** Sch. 3 para. 4(cc) inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **22**

*Disability Qualifications*

**5.** Persons, other than registered medical practitioners, who are experienced in dealing with the needs of disabled persons—

(a) in a professional or voluntary capacity; or

(b) because they are themselves disabled.]

[<sup>F740</sup>SCHEDULE 3A

Regulation 7(1)(a)

**Textual Amendments**

**F740** Sch. 3A inserted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#) , regs. 1(1) , **35**

**Date [<sup>F741</sup>from which superseding decision takes effect] where a claimant is in receipt of income support or jobseeker’s allowance.**

**Textual Amendments**

**F741** Words in Sch. 3A substituted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(21)(a)**

**Income Support**

**1.** Subject to paragraphs 2 to 6, where the amount of income support payable under an award is changed by a superseding decision made on the ground of a change of circumstances, that superseding decision shall take effect—

- (a) where income support is paid in arrears, from the first day of the benefit week in which the relevant change of circumstances occurs or is expected to occur; or
- (b) where income support is paid in advance, from the date of the relevant change of circumstances, or the day on which the relevant change of circumstances is expected to occur, if either of those days is the first day of the benefit week and otherwise from the next following such day,

and for the purposes of this paragraph any period of residence in temporary accommodation under arrangements for training made under section 2 of the Employment and Training Act 1973 or section 2 of the Enterprise and New Towns (Scotland) Act 1990 for a period which is expected to last for seven days or less shall not be regarded as a change of circumstances.

**2.** In the cases set out in paragraph 3, the superseding decision shall take effect from the day on which the relevant change of circumstances occurs or is expected to occur.

**3.** The cases referred to in paragraph 2 are where—

- (a) income support is paid in arrears and entitlement ends, or is expected to end, for a reason other than that the claimant no longer satisfies the provisions of section 124(1)(b) of the Contributions and Benefits Act;

[ income support is being paid from 8th April 2002 to persons who, immediately before that <sup>F742</sup>(aa) day, had a preserved right for the purposes of the Income Support Regulations;]

- (b) a child or young person referred to in regulation 16(6) of the Income Support Regulations (child in care of local authority or detained in custody) lives, or is expected to live, with the claimant for part only of the benefit week;

<sup>F743</sup>(c) .....

- (d) a person referred to in paragraph 1, 2, 3 or 18 of Schedule 7 to the Income Support Regulations—

- (i) ceases, or is expected to cease, to be a patient; or

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)

- (ii) a member of his family ceases, or is expected to cease, to be a patient, in either case for a period of less than a week;
- (e) a person referred to in paragraph 8 of Schedule 7 to the Income Support Regulations—
  - (i) ceases to be a prisoner; or
  - (ii) becomes a prisoner;
- (f) a person to whom section 126 of the Contributions and Benefits Act (trade disputes) applies—
  - (i) becomes incapable of work by reason of disease or bodily or mental disablement; or
  - (ii) enters the maternity period (as defined in section 126(2) of that Act) or the day is known on which that person is expected to enter the maternity period;
- (g) during the currency of the claim, a claimant makes a claim for a relevant social security benefit—
  - (i) the result of which is that his benefit week changes; or
  - (ii) under regulation 13 of the Claims and Payment Regulations and an award of that benefit on the relevant day for the purposes of that regulation means that his benefit week is expected to change.
- [ regulation 9 of the Social Security (Disability Living Allowance) Regulations 1991
- <sup>F744</sup>(h) (persons in certain accommodation other than hospitals) applies, or ceases to apply, to the claimant for a period of less than one week]<sup>F745</sup>; or
- (i) regulations under section 86(1) (hospital in-patients) of the Welfare Reform Act 2012 apply, or cease to apply, to the claimant for a period of less than one week]

#### Textual Amendments

- F742** Sch. 3A para. 3(aa) inserted (8.4.2002) by [Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2002 \(S.I. 2002/398\)](#), regs. 1, **3(a)**
- F743** Sch. 3A para. 3(c) omitted (18.3.2005) by virtue of [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(21)(b)**
- F744** Sch. 3A para. 3(h) added (2.10.2006) by [Social Security \(Miscellaneous Amendments\) \(No.3\) Regulations 2006 \(S.I. 2006/2377\)](#), regs. 1, **3(3)**
- F745** Sch. 3A para. 3(i) and word inserted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 21**

4. A superseding decision made in consequence of a payment of income being treated as paid on a particular day under regulation 31(1)(b) [<sup>F746</sup>(2) or (3)] or 39C(3) of the Income Support Regulations (date on which income is treated as paid) shall take effect from the day on which that payment is treated as paid.

#### Textual Amendments

- F746** Words in Sch. 3A para. 4 substituted (8.8.2003) by [Social Security \(Working Tax Credit and Child Tax Credit\) \(Consequential Amendments\) \(No.3\) Regulations 2003 \(S.I. 2003/1731\)](#), regs. 1(1), **5**

5. Where—

- (a) it is decided upon supersession on the ground of a relevant change of circumstances [<sup>F747</sup> or change specified in paragraphs 12 and 13] that the amount of income support is, or is to be, reduced; and

*Changes to legislation: There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)*

- (b) the Secretary of State certifies that it is impracticable for a superseding decision to take effect from the day prescribed in [<sup>F748</sup>paragraph 12 or] the preceding paragraphs of this Schedule (other than where paragraph 3(g) or 4 applies),

that superseding decision shall take effect—

- (i) where the relevant change has occurred, from the first day of the benefit week following that in which that superseding decision is made; or
- (ii) where the relevant change is expected to occur, from the first day of the benefit week following that in which that change of circumstances is expected to occur.

**Textual Amendments**

**F747** Words in Sch. 3A para. 5(a) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(21)(c)(i)**

**F748** Words in Sch. 3A para. 5(b) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(21)(c)(ii)**

**6. Where—**

- (a) a superseding decision (“the former supersession”) was made on the ground of a relevant change of circumstances in the cases set out in paragraphs 3(b) to (g); and
- (b) that superseding decision is itself superseded by a subsequent decision because the circumstances which gave rise to the former supersession cease to apply (“the second change”), that subsequent decision shall take effect from the date of the second change.

**Jobseeker’s Allowance**

7. Subject to paragraphs 8 to 11, where a decision in respect of a claim for jobseeker’s allowance is superseded on the ground that there has been or there is expected to be, a relevant change of circumstances, the supersession shall take effect from the first day of the benefit week (as defined in regulation 1(3) of the Jobseeker’s Allowance Regulations) in which that relevant change of circumstances occurs or is expected to occur.

**8. Where the relevant change of circumstances giving rise to the supersession is that—**

- (a) entitlement to jobseeker’s allowance ends, or is expected to end, for a reason other than that the claimant no longer satisfies the provisions of section 3(1)(a) [<sup>F749</sup>or 3A(1)(a)] of the Jobseekers Act; or

[ jobseeker’s allowance is being paid from 8th April 2002 to persons who, immediately <sup>F750</sup>(aa) before that day, had a preserved right for the purposes of the Jobseeker’s Allowance Regulations;]

- (b) a child or young person who is normally in the care of a local authority or who is detained in custody lives, or is expected to live, with the claimant for a part only of the benefit week; or

<sup>F751</sup>(c) .....

- (d) the partner of the claimant or a member of his family ceases, or is expected to cease, to be a hospital in-patient for a period of less than a week [<sup>F752</sup>; or

- (e) a joint-claim couple ceases to be [<sup>F753</sup>a couple].]

the supersession shall take effect from the date that the relevant change of circumstances occurs or is expected to occur.



#### Textual Amendments

- F749** Words in Sch. 3A para. 8(a) inserted (19.3.2001) by [The Social Security Amendment \(Joint Claims\) Regulations 2001 \(S.I. 2001/518\)](#), regs. 1(1), **4(c)(i)**
- F750** Sch. 3A para. 8(aa) inserted (8.4.2002) by [Social Security Amendment \(Residential Care and Nursing Homes\) Regulations 2002 \(S.I. 2002/398\)](#), regs. 1, **3(b)**
- F751** Sch. 3A para. 8(c) omitted (18.3.2005) by virtue of [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(21)(b)**
- F752** Sch. 3A para. 8(e) and word inserted (19.3.2001) by [The Social Security Amendment \(Joint Claims\) Regulations 2001 \(S.I. 2001/518\)](#), regs. 1(1), **4(c)(ii)**
- F753** Words in Sch. 3A para. 8(e) substituted (5.12.2005) by [Social Security \(Civil Partnership\) \(Consequential Amendments\) Regulations 2005 \(S.I. 2005/2878\)](#), regs. 1, **8(4)**

9. Where the relevant change of circumstances giving rise to a supersession is any of those specified in paragraph 8, and, in consequence of those circumstances ceasing to apply, a further superseding decision is made, that further superseding decision shall take effect from the date that those circumstances ceased to apply.

10. Where, under the provisions of regulation 96 or 102C(3) of the Jobseeker's Allowance Regulations, income is treated as paid on a certain date and that payment gives rise, or is expected to give rise, to a relevant change of circumstance resulting in a supersession, that supersession shall take effect from that date.

11. Where a relevant change of circumstances [<sup>F754</sup>or change specified in paragraphs 12 and 13] occurs which results, or is expected to result, in a reduced award of jobseeker's allowance then, if the Secretary of State is of the opinion that it is impracticable for a supersession to take effect in accordance with [<sup>F755</sup>paragraph 12 or] the preceding paragraphs of this Schedule, the supersession shall take effect from the first day of the benefit week following that in which the relevant change of circumstances occurs.]

#### Textual Amendments

- F754** Words in Sch. 3A para. 11 inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(21)(d)(i)**
- F755** Words in Sch. 3A para. 11 inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(21)(d)(ii)**

#### <sup>F756</sup>Changes other than changes of circumstances

12. Where an amount of income support or jobseeker's allowance payable under an award is changed by a superseding decision specified in paragraph 13 the superseding decision shall take effect—

- (a) in the case of a change in respect of income support, from the day specified in paragraph 1(a) or (b) for a change of circumstances; and
- (b) in the case of a change in respect of jobseeker's allowance, from the day specified in paragraph 7 for a change of circumstances.

#### Textual Amendments

- F756** Sch. 3A para. 12 - Sch. 3A para. 13 added (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(21)(e)**

*Changes to legislation: There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)*

13. The following are superseding decisions for the purposes of paragraph 12—
- (a) a decision which supersedes a decision specified in regulation 6(2)(b) to (ee); and
  - (b) a superseding decision which would, but for paragraph 12, take effect from a date specified in regulation 7(5) to (7), (12) to (16), (18) to (20), (22), (24) and (33).]

**Textual Amendments**

**F756** Sch. 3A para. 12 - Sch. 3A para. 13 added (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(21)(e)**

**Textual Amendments**

**F756** Sch. 3A para. 12 - Sch. 3A para. 13 added (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **2(21)(e)**

[<sup>F757</sup>SCHEDULE 3B

DATE ON WHICH CHANGE OF CIRCUMSTANCES TAKES EFFECT  
WHERE CLAIMANT ENTITLED TO STATE PENSION CREDIT

**Textual Amendments**

**F757** Sch. 3B inserted (7.4.2003) by [State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(a), **22**

1. Where the amount of state pension credit payable under an award is changed by a superseding decision made on the ground that there has been a relevant change of circumstances, that superseding decision shall take effect from the following days—

- (a) for the purpose only of determining the day on which an assessed income period begins under section 9 of the State Pension Credit Act , from the day following the day on which the last previous assessed income period ended; and

[<sup>F758</sup>(b) except as provided in the following paragraphs—

- (i) where state pension credit is paid in advance, from the day that change occurs or is expected to occur if either of those days is the first day of a benefit week but if it is not from the next following such day;
- (ii) where state pension credit is paid in arrears, from the first day of the benefit week in which that change occurs or is expected to occur.]

**Textual Amendments**

**F758** Sch. 3B para. 1(b) substituted (11.4.2011) by [The Social Security \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/674\)](#), regs. 1(4), **8(a)**

[<sup>F759</sup>2. Subject to paragraph 3, where the relevant change is that—

- (a) the claimant’s income or the income of the claimant’s partner (other than deemed income from capital) has changed;

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)

- (b) the claimant or the claimant's partner becomes entitled to—
- (i) disability living allowance (middle or higher rate care component); <sup>F760</sup> ...
  - (ii) attendance allowance; <sup>F761</sup> ...
  - [ personal independence payment (standard or enhanced rate daily living component <sup>F762</sup>(iii) under section 78 of the Welfare Reform Act 2012); or
  - [ armed forces independence payment under the Armed Forces and Reserve Forces <sup>F763</sup>(iv) (Compensation Scheme) Order 2011; or]
- (c) the claimant or the claimant's partner again receives [<sup>F764</sup>any of the allowances or payments] mentioned in sub-paragraph (b) above immediately after the end of the period specified in paragraph 2A,

the superseding decision shall take effect on the first day of the benefit week in which that change occurs or if that is not practicable in the circumstances of the case, on the first day of the next following benefit week.]

#### Textual Amendments

- F759** Sch. 3B para. 2 substituted (2.4.2013) by [The Social Security \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/443\)](#), regs. 1, **5(a)**
- F760** Word in Sch. 3B para. 2(b)(i) omitted (8.4.2013) by virtue of [The Social Security \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/443\)](#), regs. 1, **5(b)(i)**
- F761** Word in Sch. 3B para. 2(b)(ii) omitted (8.4.2013) by virtue of [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 15(2)(a)**
- F762** Sch. 3B para. 2(b)(iii) inserted (8.4.2013) by [The Social Security \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/443\)](#), regs. 1, **5(b)(ii)**
- F763** Sch. 3B para. 2(b)(iv) inserted (8.4.2013) by [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 15(2)(b)**
- F764** Words in Sch. 3B para. 2(c) substituted (8.4.2013) by [The Social Security \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/443\)](#), regs. 1, **5(b)(iii)**

[  
<sup>F765</sup>**2A.** A period specified for the purposes of paragraph 2 is a period when the claimant or the claimant's partner is maintained free of charge while undergoing medical or other treatment as an in-patient in—

- (a) a hospital or similar institution under—
  - (i) the National Health Service 2006;
  - (ii) the National Health Service (Wales) Act 2006; or
  - (iii) the National Health Service (Scotland) Act 1978; or
- (b) a hospital or similar institution maintained or administered by the Defence Council.]

#### Textual Amendments

- F765** Sch. 3B para. 2A inserted (2.4.2013) by [The Social Security \(Miscellaneous Amendments\) Regulations 2013 \(S.I. 2013/443\)](#), regs. 1, **5(c)**

*Changes to legislation: There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)*

3. Paragraph 2 shall not apply where the only relevant change is that working tax credit under the Tax Credits Act 2002 becomes payable or becomes payable at a higher rate.

4. A superseding decision shall take effect from the day the change of circumstances occurs or is expected to occur if—

- (a) the person ceases to be or becomes a prisoner, and for this purpose “prisoner” has the same meaning as in regulation 1(2) of the State Pension Credit Regulations ; or
- (b) whilst entitled to state pension credit a claimant is awarded another social security benefit and in consequence of that award his benefit week changes or is expected to change.

[<sup>F766</sup>5. In a case where the relevant circumstance is that the claimant ceased to be a patient, if he becomes a patient again in the same benefit week, the superseding decision in respect of ceasing to be a patient shall take effect from the first day of the week in which the change occurred.]

#### Textual Amendments

**F766** Sch. 3B para. 5 substituted (6.10.2003) by [State Pension Credit \(Transitional and Miscellaneous Provisions\) Amendment Regulations 2003 \(S.I. 2003/2274\)](#), regs. 1, **5(4)**

6. In paragraph 5, “patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of the [<sup>F767</sup>Social Security (Hospital In-Patients) Regulations 2005]]

#### Textual Amendments

**F767** Words in Sch. 3B para. 6 substituted (24.9.2007) by [Social Security \(Miscellaneous Amendments\) \(No.4\) Regulations 2007 \(S.I. 2007/2470\)](#), regs. 1, **3(9)**

[<sup>F768</sup>7. [<sup>F769</sup>Subject to [<sup>F770</sup>paragraph 8A], where] an amount of state pension credit payable under an award is changed by a superseding decision specified in paragraph 8 the superseding decision shall take effect from the day specified in paragraph 1(b).

#### Textual Amendments

**F768** Sch. 3B paras. 7-8 added (10.4.2006) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2006 \(S.I. 2006/832\)](#), regs. 1(2), **5(4)**

**F769** Words in Sch. 3B para. 7 substituted (6.4.2010) by [Social Security \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/510\)](#), regs. 1(2), **4(4)(a)**

**F770** Words in Sch. 3B para. 7 substituted (11.4.2011) by [The Social Security \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/674\)](#), regs. 1(4), **8(c)**

8. The following are superseding decisions for the purposes of paragraph 7—

- (a) a decision which supersedes a decision specified in regulation 6(2)(b) to (ee) and (m); and
- (b) a superseding decision which would, but for paragraphs 2 and 7, take effect from a date specified in regulation 7(5) to (7), (12) to (16) and (29C).]

#### Textual Amendments

**F768** Sch. 3B paras. 7-8 added (10.4.2006) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2006 \(S.I. 2006/832\)](#), regs. 1(2), **5(4)**

[<sup>F771</sup>**8A.** Where the relevant change of circumstances is the death of the claimant, the superseding decision shall take effect on the first day of the benefit week next following the date of death.]

**Textual Amendments**

**F771** Sch. 3B para. 8A substituted for Sch. 3B paras. 9-10 (11.4.2011) by [The Social Security \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/674\)](#), regs. 1(4), **8(d)**

[<sup>F772</sup>**11.** In this Schedule, “benefit week” means—

- (a) where state pension credit is paid in advance, the period of 7 days beginning on the day on which, in the claimant’s case, that benefit is payable;
- (b) where state pension credit is paid in arrears, the period of 7 days ending on the day on which, in the claimant’s case, that benefit is payable.]

**Textual Amendments**

**F772** Sch. 3B paras. 9-11 added (6.4.2010) by [Social Security \(Miscellaneous Amendments\) Regulations 2010 \(S.I. 2010/510\)](#), regs. 1(2), **4(4)(b)**

[<sup>F773</sup> SCHEDULE 3C

Regulation 7(1)(a)

DATE FROM WHICH CHANGE OF CIRCUMSTANCES TAKES EFFECT WHERE  
CLAIMANT ENTITLED TO EMPLOYMENT AND SUPPORT ALLOWANCE

**Textual Amendments**

**F773** Sch. 3C inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **43**

**1.** Subject to paragraphs 2 to 7, where the amount of an employment and support allowance payable under an award is changed by a superseding decision made on the ground of a change of circumstances, that superseding decision shall take effect from the first day of the benefit week in which the relevant change of circumstances occurs or is expected to occur.

**2.** In the cases set out in paragraph 3, the superseding decision shall take effect from the day on which the relevant change of circumstances occurs or is expected to occur.

**3.** The cases referred to in paragraph 2 are where—

- (a) entitlement ends, or is expected to end, for a reason other than that the claimant no longer satisfies the provisions of paragraph 6(1)(a) of Schedule 1 to the Welfare Reform Act ;
- (b) a child or young person referred to in regulation 156(6)(d) or (h) of the Employment and Support Allowance Regulations (child in care of local authority or detained in custody) lives, or is expected to live, with the claimant for part only of the benefit week;
- (c) a person referred to in paragraph 12 of Schedule 5 to the Employment and Support Allowance Regulations —
  - (i) ceases, or is expected to cease, to be a patient; or
  - (ii) a member of the person’s family ceases, or is expected to cease, to be a patient,

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)

- in either case for a period of less than a week;
- (d) a person referred to in paragraph 3 of Schedule 5 to the Employment and Support Allowance Regulations —
- (i) ceases to be a prisoner; or
  - (ii) becomes a prisoner;
- (e) during the currency of the claim a claimant makes a claim for a relevant social security benefit—
- (i) the result of which is that his benefit week changes; or
  - (ii) in accordance with regulation 13 of the Claims and Payments Regulations and an award of that benefit on the relevant day for the purposes of that regulation means that his benefit week is expected to change.
- [<sup>F774</sup>(f) regulation 9 of the Social Security (Disability Living Allowance) Regulations 1991 (persons in care homes) applies, or ceases to apply, to the claimant for a period of less than one week; or
- (g) regulations under section 85(1) of the Welfare Reform Act 2012 (care home residents) apply, or cease to apply, to the claimant for a period of less than one week.]

#### Textual Amendments

**F774** Sch. 3C para. 3(f)(g) inserted (29.10.2013) by [The Social Security \(Miscellaneous Amendments\) \(No. 3\) Regulations 2013 \(S.I. 2013/2536\)](#), regs. 1(1), 8

4. A superseding decision made in consequence of a payment of income being treated as paid on a particular day under regulation 93 of the Employment and Support Allowance Regulations (date on which income is treated as paid) shall take effect from the day on which that payment is treated as paid.

5. Where—

- (a) it is decided upon supersession on the ground of a relevant change of circumstances or change specified in paragraphs 9 and 10 that the amount of an employment and support allowance is, or is to be, reduced; and
- (b) the Secretary of State certifies that it is impracticable for a superseding decision to take effect from the day prescribed in paragraph 9 or the preceding paragraphs of this Schedule (other than where paragraph 3(e) or 4 applies),

that superseding decision shall take effect—

- (i) where the relevant change has occurred, from the first day of the benefit week following that in which that superseding decision is made; or
- (ii) where the relevant change is expected to occur, from the first day of the benefit week following that in which that change of circumstances is expected to occur.

6. Where—

- (a) a superseding decision (“the former supersession”) was made on the ground of a relevant change of circumstances in the cases set out in paragraph 3(b) to (e); and
- (b) that superseding decision is itself superseded by a subsequent decision because the circumstances which gave rise to the former supersession cease to apply (“the second change”),

that subsequent decision shall take effect from the date of the second change.

**Changes to legislation:** *There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)*

7. In the case of an employment and support allowance decision where there has been a limited capability for work determination, where—

- (a) the Secretary of State is satisfied that, in relation to a limited capability for work determination, the claimant or payee failed to notify an appropriate office of a change of circumstances which regulations under the Administration Act required him to notify; and
- (b) the claimant or payee, as the case may be, could reasonably have been expected to know that the change of circumstances should have been notified,

the superseding decision shall take effect—

- (i) from the date on which the claimant or payee, as the case may be, ought to have notified the change of circumstances; or
- (ii) if more than one change has taken place between the date from which the decision to be superseded took effect and the date of the superseding decision, from the date on which the first change ought to have been notified.

*Changes other than changes of circumstances*

8. Where—

- (a) the Secretary of State supersedes a decision made by an appeal tribunal or a Commissioner on the grounds specified in regulation 6(2)(c)(i) (ignorance of, or mistake as to, a material fact);
- (b) the decision to be superseded was more advantageous to the claimant because of the ignorance or mistake than it would otherwise have been; and
- (c) the material fact—
  - (i) does not relate to the limited capability for work determination embodied in or necessary to the decision; or
  - (ii) relates to a limited capability for work determination embodied in or necessary to the decision and the Secretary of State is satisfied that at the time the decision was made the claimant or payee, as the case may be, knew or could reasonably have been expected to know of it and that it was relevant,

the superseding decision shall take effect from the first day of the benefit week in which the decision of the appeal tribunal or the Commissioner took effect or was to take effect.

9. Where an amount of an employment and support allowance payable under an award is changed by a superseding decision specified in paragraph 10 the superseding decision shall take effect from the day specified in paragraph 1 for a change of circumstances.

10. The following are superseding decisions for the purposes of paragraph 9—

- (a) a decision which supersedes a decision specified in regulation 6(2)(b) and (d) to (ee); and
- (b) a superseding decision which would, but for paragraph 9, take effect from a date specified in regulation 7(6), (7), (12), (13), (17D) to (17F), and (33).]

[<sup>F775</sup>SCHEDULE 3D

Regulation 7B

## EFFECTIVE DATES FOR SUPERSESSION OF CHILD SUPPORT DECISIONS

**Textual Amendments**

**F775** Sch. 3D inserted (6.4.2009) by [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(16)** (with reg. 7)

[<sup>F776</sup>1. This Schedule sets out the exceptions to the general rule in section 17(4) of the Child Support Act (that is the rule that a supersession decision takes effect from the beginning of the maintenance period in which it is made or, where applicable, the beginning of the maintenance period in which an application for a supersession is made).

**Textual Amendments**

**F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**

**Expected change**

2. Where the ground for the supersession decision is that a relevant change of circumstances is expected to occur or that a ground for a variation is expected to occur, the decision takes effect from the beginning of the maintenance period in which that change or that ground is expected to occur.

**Textual Amendments**

**F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**

**Decision backdated to when the change occurred**

3. Where the ground for the supersession decision is that a relevant change of circumstances of the following kind has occurred, the decision takes effect from the beginning of the maintenance period in which the change occurred—

(a) a qualifying child dies or ceases to be a qualifying child;

[<sup>F777</sup>(aa) a relevant other child dies or ceases to be a relevant other child;]

(b) the person with care ceases to be a person with care in relation to a qualifying child;

(c) the person with care, the non-resident parent or a qualifying child ceases to be habitually resident in the United Kingdom; <sup>F778</sup>...

(d) paragraph 4(2) of Schedule 1 to the Child Support Act (flat rate for a non-resident parent whose partner is a non-resident parent) begins or ceases to apply [<sup>F779</sup>; or

(e) the non-resident parent begins or ceases to receive a benefit mentioned in regulation 4(1) of the Maintenance Calculations and Special Cases Regulations (flat rate) or begins or ceases to be a person who receives, or whose partner receives, a benefit referred to in regulation 4(2) of those Regulations.]



**Changes to legislation:** There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)

**Textual Amendments**

- F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**
- F777** Sch. 3D para. 3(aa) inserted (4.7.2011) by [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(4)(a)(i)**
- F778** Word in Sch. 3D para. 3(c) omitted (4.7.2011) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(4)(a)(ii)**
- F779** Sch. 3D para. 3(e) and word added (4.7.2011) by [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(4)(a)(iii)**

[<sup>F780</sup>**3A.** In paragraph 3, the reference to the day on which a person begins or ceases to receive a benefit is to the day on which entitlement to the benefit commences or ends, as the case may be.]

**Textual Amendments**

- F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**
- F780** Sch. 3D para. 3A inserted (4.7.2011) by [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(4)(b)**

**Textual Amendments**

- F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**
- F777** Sch. 3D para. 3(aa) inserted (4.7.2011) by [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(4)(a)(i)**
- F778** Word in Sch. 3D para. 3(c) omitted (4.7.2011) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(4)(a)(ii)**
- F779** Sch. 3D para. 3(e) and word added (4.7.2011) by [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(4)(a)(iii)**
- F780** Sch. 3D para. 3A inserted (4.7.2011) by [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(4)(b)**

**Non-resident parent or partner on or off benefit**

<sup>F781</sup>**4.** .....

**Textual Amendments**

- F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**
- F781** Sch. 3D para. 4 omitted (4.7.2011) by virtue of [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(4)(c)**

**New qualifying child**

5. Paragraphs 6 and 7 apply where the ground for the supersession is that there is a new qualifying child in relation to the non-resident parent.

**Textual Amendments**

**F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**

6. Where there is a new qualifying child in relation to the same person with care—
- (a) if the application is made by the non-resident parent, the decision takes effect from the beginning of the maintenance period in which the application is made; and
  - (b) if the application is made by the person with care the decision takes effect from the beginning of the maintenance period in which notification of the application is given to the non-resident parent.

**Textual Amendments**

**F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**

7. Where there is a new qualifying child in relation to a different person with care and an application for a maintenance calculation has been made under section 4 or section 7 of the Child Support Act, the decision takes effect from the beginning of the maintenance period in which notification of the calculation is given to the non-resident parent.

**Textual Amendments**

**F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**

**Series of changes waiting to be actioned**

8. Where a decision is superseded on application and, in relation to that decision, a maintenance calculation is made to which paragraph 15 of Schedule 1 to the Child Support Act applies, the effective date of the calculation or calculations is the beginning of the maintenance period in which the change of circumstances to which the calculation relates occurred or is expected to occur and where it occurred before the date of the application for the supersession and was notified after that date, [<sup>F782</sup>the beginning of the maintenance period in which that application was made].

**Textual Amendments**

**F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**

**F782** Words in Sch. 3D para. 8 substituted (4.7.2011) by [The Child Support \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1464\)](#), regs. 1(1), **2(4)(d)**

### Own initiative decision

9. Unless paragraph 4 applies, where a decision is superseded in a case where the [<sup>F783</sup>Secretary of State] is required to give notice under regulation 7C, the decision takes effect from the first day of the maintenance period which includes the date which is 28 days after the date on which the [<sup>F783</sup>Secretary of State] has given notice (oral or written) to the relevant persons under that regulation.

#### Textual Amendments

**F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**

**F783** Words in Sch. 3D para. 10 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(15)**

### Supersession of tribunal decision made pending outcome of a related appeal

10. Where, in accordance with section 28ZB(5) of the Child Support Act (appeals involving issues that arise on appeal in other cases), the [<sup>F783</sup>Secretary of State] makes a decision superseding the decision of the First-tier Tribunal or the Upper Tribunal, the superseding decision takes effect from the beginning of the maintenance period following the date on which the decision of the First-tier Tribunal or, as the case may be, the Upper Tribunal would have taken effect had it been decided in accordance with the determination of the Upper Tribunal or the court in the appeal referred to in section 28ZB(1)(b).

#### Textual Amendments

**F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**

**F783** Words in Sch. 3D para. 10 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(15)**

### Supersession of tribunal decision made in error due to misrepresentation etc.

11. Where—

- (a) a decision made by [<sup>F784</sup>an appeal tribunal, the First-tier Tribunal, the Upper Tribunal or of a Child Support Commissioner] is superseded on the ground that it was erroneous due to misrepresentation of, or that there was a failure to disclose, a material fact; and
- (b) the [<sup>F785</sup>Secretary of State] is satisfied that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would otherwise have been but for that error,

*Changes to legislation:* There are currently no known outstanding effects for the *The Social Security and Child Support (Decisions and Appeals) Regulations 1999*. (See end of Document for details)

the superseding decision takes effect from the date on which the decision of [<sup>F786</sup>an appeal tribunal, the First-tier Tribunal, the Upper Tribunal or a Child Support Commissioner (as the case may be)] took, or was to take, effect.

**Textual Amendments**

- F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**
- F784** Words in Sch. 3D para. 11(a) substituted (14.5.2012 retrospective to 3.11.2008 in accordance with reg. 1(2)) by [The Social Security and Child Support \(Supersession of Appeal Decisions\) Regulations 2012 \(S.I. 2012/1267\)](#), regs. 1, **4(6)(a)**
- F785** Words in Sch. 3D para. 11 substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(15)**
- F786** Words in Sch. 3D para. 11 substituted (14.5.2012 retrospective to 3.11.2008 in accordance with reg. 1(2)) by [The Social Security and Child Support \(Supersession of Appeal Decisions\) Regulations 2012 \(S.I. 2012/1267\)](#), regs. 1, **4(6)(b)**

**Supersession of look alike case where law reinterpreted by the Upper Tribunal or a court**

12. Any decision made under section 17 of the Child Support Act in consequence of a determination which is a relevant determination for the purposes of section 28ZC (cases of error) of that Act takes effect from the date of the relevant determination.]]

**Textual Amendments**

- F776** Sch. 3D omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(8)**

SCHEDULE 4

Regulation 59

REVOCATIONS

<i>Column 1 Statutory Instrument Number</i>	<i>Column 2 Statutory Instrument</i>	<i>Column 3 Provision Revoked</i>
1979/432	The Vaccine Damage Payments Regulations 1979	Part III
1992/2641	The Child Support Appeal Tribunals (Procedure) Regulations 1992	The whole Regulations
1995/311	The Social Security (Incapacity for Work) (General) Regulations 1995	Regulations 19 and 20 to 22

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)

1995/1801	The Social Security (Adjudication) Regulations 1995	The whole Regulations
1996/182	The Social Security (Adjudication) and Child Support Amendment Regulations 1996	Regulation 2
1996/425	The Social Security (Industrial Injuries and Diseases) (Miscellaneous Amendments) Regulations 1996	Regulation 2
1996/1518	The Social Security (Adjudication) Amendment Regulations 1996	The whole Regulations
1996/2306	The Social Security (Claims and Payments and Adjudication) Amendment Regulations 1996	Regulations 8 and 9
1996/2450	The Social Security (Adjudication) and Child Support Amendment (No.2) Regulations 1996	Regulations 2 to 13
1996/2659	The Social Security (Adjudication) Amendment (No.2) Regulations 1996	The whole Regulations
1997/65	The Income-Related Benefits and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 1997	Regulation 16
1997/793	The Social Security (Miscellaneous Amendments) (No.2) Regulations 1997	Regulations 1(2)(a) and 8 to 17
1997/810	The Social Security (Industrial Injuries) (Miscellaneous Amendments) Regulations 1997	Regulations 2, 3 and 4
[ <sup>F787</sup> 1997/955]	The Social Security (Adjudication) and Commissioners Procedure and Child Support Commissioners (Procedure) Amendment Regulations 1997	In regulation 1(2), the definition of "the Adjudication Regulations" and regulations 2 to 6
1997/1839	The Social Security (Attendance Allowance and Disability Living Allowance) (Miscellaneous Amendments) Regulations 1997	In regulation 1(2) the definition of "the Adjudication Regulations" and regulation 4

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)

1997/2237	The Social Security (Recovery of Benefits) (Appeals) Regulations 1997	The whole Regulations
1997/2305	The Social Security (Miscellaneous Amendments) (No.4) Regulations 1997	Regulation 4

#### Textual Amendments

**F787** Word in Sch. 4 substituted (5.7.1999) by [The Social Security and Child Support \(Decisions and Appeals\) Amendment \(No. 2\) Regulations 1999 \(S.I. 1999/1623\)](#) , regs. 1(1) , 7

### EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made by virtue of, or in consequence of, provisions in the Social Security Act 1998 (c.14) (“the Act”) and supplement changes introduced by that Act to the decision-making process for social security and related matters. The Regulations also provide for the procedural rules and other requirements of a new unified appeals system introduced by the Act for social security, contracting out of pensions, child support and vaccine damage.

The Regulations are made before the end of the period of six months beginning with the coming into force of the relevant provisions in the Act and are therefore exempted from the requirement in section 172(1) of the Social Security Administration Act 1992 (c.5) to refer proposals to make these Regulations to the Social Security Advisory Committee and are made without reference to that Committee. The Regulations are made after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992 (c. 53).

Part I of the Regulations contains provisions relating to commencement, citation and interpretation as well as service of notices or documents.

Part II of the Regulations makes provision for decisions by the Secretary of State in social security and related matters. Chapters I and II provide for the circumstances in which the Secretary of State may revise or supersede decisions, when such decisions take effect and related procedural rules.

Chapter III contains miscellaneous provisions relating to decisions of the Secretary of State in social security, including certain relevant requirements formerly contained in the Social Security (Adjudication) Regulations 1995 and other related regulations which are now revoked. It also includes provision in relation to industrial injuries benefits for the Secretary of State to seek advice from a medical practitioner.

Part III of the Regulations makes provision for the suspension and termination of benefit and for dealing with decisions where there are related appeals or decisions.

Part IV concerns rights of appeal and the procedure for bringing appeals. Chapter I makes provision for additional persons to have a right of appeal, for decisions (other than those in the Act) against which there is no right of appeal and decisions where there is a right of appeal. It also provides procedural rules for bringing appeals.

Part V makes provision for appeal tribunals for social security, contracting out of pensions, vaccine damage and child support. Chapter I provides for the panel from which appeal tribunal members are drawn to include people with specified qualifications, for requirements relating to

**Changes to legislation:** *There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999. (See end of Document for details)*

the composition of appeal tribunals and the assignment of clerks to tribunals. Chapters II to V of that Part provide for further matters relating to appeals and referrals. Chapter II makes provision for procedural requirements in the determination of appeals and referrals, including withdrawal of appeals or referrals, medical examinations and witnesses. Chapter III provides for the striking out of certain appeals and related procedures. Chapter IV provides for procedures at oral hearings and Chapter V makes provision relating to the decisions and reports of appeal tribunals and applications for leave to a Commissioner.

Part VI and Schedule 4 provide for revocations.

These Regulations do not impose a charge on business.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999.