

**2021 No. 305**

**SOCIAL SECURITY**

**The Social Security (Claims and Payments) (Miscellaneous  
Amendments) (Scotland) Regulations 2021**

*Made* - - - - *8th September 2021*

*Laid before the Scottish Parliament* *10th September 2021*

*Coming into force* - - *18th October 2021*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 5(1)(i) and 189(1), (5) and (6) of the Social Security Administration Act 1992(a) and all other powers enabling them to do so.

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Social Security (Claims and Payments) (Miscellaneous Amendments) (Scotland) Regulations 2021 and come into force on 18 October 2021.

(2) These Regulations extend to Scotland only.

**Interpretation**

2. In these Regulations—

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

“the 2013 Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker’s Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013(c).

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(a) 1992 c. 5. Section 189(1) was amended by paragraph 57(2) of schedule 3 of the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and paragraph 1 of schedule 6 of the Tax Credits Act 2002 (c. 21). Section 189(6) was amended by S.I. 2013/252. The function of making regulations under section 5 of the Social Security Administration Act 1992 (“the 1992 Act”) is exercisable by the Secretary of State by virtue of section 189(1) of that Act. The functions of the Secretary of State under sections 5 and 189 of the 1992 Act, as regards Scotland, transferred to the Scottish Ministers on 1 April 2020. Legislative competence for disability, industrial injuries and carer’s benefits and benefits for maternity, funeral and heating expenses were transferred to the Scottish Parliament by section 22(2) and 23(2) of the Scotland Act 2016 (c.11) (“the 2016 Act”). Sections 22(2) and 23(2) inserted exceptions into paragraph F1 of schedule 5 of the Scotland Act 1998 (c. 46). Sections 22(2) and 23(2) of the 2016 Act were brought into force on 17 May 2017 by S.I. 2017/455, subject to transitional arrangements set out in S.I. 2017/444 which modified the operation of the Scotland Act 1998. Section 32 of the 2016 Act provides the meaning of “pre-commencement enactment” in this context. The transitional arrangements in respect of disability, industrial injuries and carer’s benefits, and benefits for maternity, funeral and heating expenses ended on 31 March 2020 (see regulations 4 and 7 of S.I. 2017/444). Accordingly, in so far as the functions under section 5 and 189 are exercisable within devolved competence, they are now exercisable by the Scottish Ministers.

(b) S.I. 1987/1968.

(c) S.I. 2013/380.

### **Amendment of the 1987 Regulations**

3. After regulation 21ZA (payment of arrears of benefits by instalments) of the 1987 Regulations<sup>(a)</sup> insert—

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

**21ZB.**—(1) In relation to payments made under provisions related to devolved social security matters, the Scottish Ministers may pay arrears of benefit in instalments where—

- (a) the Scottish Ministers consider it is necessary for protecting the interests of the beneficiary, and
- (b) the beneficiary agrees that those arrears may be paid in instalments.

(2) For the purpose of paragraph (1), “devolved social security matters” means matters which are within the legislative competence of the Scottish Parliament by virtue of exceptions 1 to 10 in Section F1 of Part 2 of schedule 5 of the Scotland Act 1998<sup>(b)</sup>.”.

### **Amendment of the 2013 Regulations**

4. In regulation 48 (payment of personal independence payment) of the 2013 Regulations, after paragraph (4)<sup>(c)</sup> insert—

“(5) The Scottish Ministers may pay arrears of personal independence payment in instalments where—

- (a) the Scottish Ministers consider it is necessary for protecting the interests of the claimant, and
- (b) the claimant agrees that those arrears may be paid in instalments.”.

*BEN MACPHERSON*

Authorised to sign by the Scottish Ministers

St Andrew’s House,  
Edinburgh  
8th September 2021

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(a) Regulation 21ZA was inserted by S.I. 2021/xxx.

(b) 1998 c. 46. Exceptions 1 to 10 in Section F1 of Part 2 of schedule 5 were inserted by sections 22 to 28 of the Scotland Act 2016 (c. 11).

(c) Paragraph (4) of regulation 48 was inserted by S.I. 2021/xxx.

## **EXPLANATORY NOTE**

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

Regulations 2 and 3 of these Regulations amend respectively the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) and the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013 (S.I. 2013/380) to allow the Scottish Ministers to pay benefit arrears in instalments where the Scottish Ministers consider it to be in the interest of the person entitled to the benefit and that person agrees to the payment of the arrears in that way.

The benefits to which these Regulations apply are currently administered pursuant to an agency agreement under section 93 of the Scotland Act 1998.

No business and regulatory impact assessment has been prepared for these Regulations as no impact on business, charities or voluntary bodies is foreseen.

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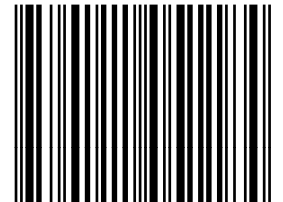
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