
STATUTORY INSTRUMENTS

1987 No. 1968

The Social Security (Claims and Payments) Regulations 1987

PART II

CLAIMS

Claims not required for entitlement to benefit in certain cases

3. It shall not be a condition of entitlement to benefit that a claim be made for it in the following cases:—

- (a) in the case of a Category C retirement pension where the beneficiary is in receipt of—
 - (i) another retirement pension under the Social Security Act 1975; or
 - (ii) widow's benefit under Chapter 1 of Part II of that Act; or
 - (iii) benefit by virtue of section 39(4) of that Act corresponding to a widow's pension or a widowed mother's allowance;
- (b) in the case of a Category D retirement pension where the beneficiary—
 - (i) was ordinarily resident in Great Britain on the day on which he attained 80 years of age; and
 - (ii) is in receipt of another retirement pension under the Social Security Act 1975;
- (c) age addition in any case;
- (d) in the case of a Category A or B retirement pension—
 - (i) where the beneficiary is a woman over the age of 65 and entitled to a widowed mother's allowance, on her ceasing to be so entitled; or
 - (ii) where the beneficiary is a woman under the age of 65 and in receipt of widow's pension, on her attaining that age.

Making a claim for benefit

4.—(1) Every claim for benefit shall be made in writing on a form approved by the Secretary of State, or in such other manner, being in writing, as the Secretary of State may accept as sufficient in the circumstances of any particular case.

(2) In the case of a claim for family credit, where a married or unmarried couple is included in the family, the claim shall be made by the woman, unless the Secretary of State is satisfied that it would be reasonable to accept a claim by the man.

(3) In the case of a married or unmarried couple, a claim for income support shall be made by whichever partner they agree should so claim or, in default of agreement, by such one of them as the Secretary of State shall in his discretion determine.

(4) Where one of a married or unmarried couple is entitled to income support under an award and, with his agreement, his partner claims income support that entitlement shall terminate on the day before that claim is made or treated as made.

(5) Forms of claim shall be supplied without charge by such persons as the Secretary of State may appoint or authorise for that purpose.

(6) Every claim shall be delivered or sent to an appropriate office, which, in the case of unemployment benefit, shall be such office, if any, as the Secretary of State may specify.

(7) If a claim is defective at the date when it is received or has been made in writing but not on the form approved for the time being, the Secretary of State may refer the claim to the person making it or, as the case may be, supply him with the approved form, and if the form is received properly completed within one month, or such longer period as the Secretary of State may consider reasonable, from the date on which it is so referred or supplied, the Secretary of State shall treat the claim as if it has been duly made in the first instance.

(8) A claim which is made on the form approved for the time being is, for the purposes of paragraph (7), properly completed if completed in accordance with the instructions on the form and defective if not so completed.

Amendment and withdrawal of claim

5.—(1) A person who has made a claim may amend it at any time by notice in writing received in an appropriate office before a determination has been made on the claim, and any claim so amended may be treated as if it had been so amended in the first instance.

(2) A person who has made a claim may withdraw it at any time before a determination has been made on it, by notice to an appropriate office, and any such notice of withdrawal shall have effect when it is received.

Date of claim

6.—(1) Subject to paragraph (2) the date on which a claim is made shall be—

- (a) in the case of a claim which meets the requirements of regulation 4(1), the date on which it is received in an appropriate office;
- (b) in the case of a claim which does not meet the requirements of regulation 4(1) but which is treated, under regulation 4(7) as having been duly made, the date on which the claim was received in an appropriate office in the first instance.

(2) In the case of a claim for family credit—

- (a) subject to the following sub-paragraphs, where, under paragraph (1), the date on which a claim is made is a day other than the first day of the benefit week for family credit (being a period of 7 days beginning with midnight between Monday and Tuesday) that claim shall be treated as made on the first day of the next following benefit week;
- (b) a claim made in accordance with paragraph 7(a) of Schedule 4 for a period following the expiration of an existing award shall be treated as made on the day after such expiration; and
- (c) where the time for claiming is extended under regulation 19 the claim shall be treated as made on the first day of the period in respect of which the claim is, by reason of the operation of that regulation, timeously made; and
- (d) where the claim is made on or after the date when an up-rating order is made under section 63(2) of the Social Security Act 1986, but before the date when that order comes into force, and—
 - (i) an award cannot be made on that claim as at the date it is made but could have been made if that order were then in force; and
 - (ii) the period beginning with the date of claim and ending immediately before the date when the order came into force does not exceed 28 days,

the claim shall be treated as made on the date the order comes into force.

Evidence and information

7.—(1) Every person who makes a claim for benefit shall furnish such certificates, documents, information and evidence in connection with the claim, or any question arising out of it, as may be required by the Secretary of State and shall do so within one month of being required to do so or such longer period as the Secretary of State may consider reasonable.

(2) Where a benefit may be claimed by either of two partners or where entitlement to or the amount of any benefit is or may be affected by the circumstances of a partner, the Secretary of State may require the partner other than the claimant to certify in writing whether he agrees to the claimant making the claim or, as the case may be, that he confirms the information given about his circumstances.

(3) In the case of a claim for family credit, the employer of the claimant or, as the case may be, of the partner shall furnish such certificates, documents, information and evidence in connection with the claim or any question arising out of it as may be required by the Secretary of State.

Attendance in person

8.—(1) Subject to any directions given by the Secretary of State in any particular case, a person who is claiming unemployment benefit or who is claiming income support and is required by section 20(3)(d)(i) of the Social Security Act 1986 to be available for employment, shall attend in person at such unemployment benefit office as the Secretary of State may direct.

(2) Every person who makes a claim for benefit shall attend at such office or place and on such days and at such times as the Secretary of State may direct, for the purpose of furnishing certificates, documents, information and evidence under regulation 7, if reasonably so required by the Secretary of State.

Interchange with claims for other benefits

9.—(1) Where it appears that a person who has made a claim for benefit specified in column (1) of Part I of Schedule 1 may be entitled to the benefit specified opposite to it in column (2) of that Part, any such claim may be treated by the Secretary of State as a claim alternatively, or in addition, to the benefit specified opposite to it in that column.

(2) Where it appears that a person who has claimed any benefit specified in Part II of Schedule 1 in respect of a child may be entitled to child benefit in respect of the same child, the Secretary of State may treat the claim alternatively, or in addition, for the benefit in question as a claim by that person for child benefit.

(3) Where it appears that a person who has claimed child benefit in respect of a child may be entitled to any benefit specified in Part II of Schedule 1 (except an increase of child benefit) in respect of the same child, the Secretary of State may treat the claim for child benefit as a claim alternatively, or in addition, by that person for the benefit in question specified in that Part.

(4) Where it appears that a person who has made a claim for benefit other than child benefit is not entitled to it, but that some other person may be entitled to an increase of benefit in respect of him, the Secretary of State may treat the claim as if it were a claim by such other person for an increase of benefit in respect of the claimant.

(5) Where it appears that a person who has made a claim for an increase of benefit other than child benefit in respect of a child or adult dependant is not entitled to it but that some other person may be entitled to such an increase of benefit in respect of that child or adult dependant, the Secretary of State may treat the claim as if it were a claim by that other person for such an increase.

(6) Where it appears that a person who has made a claim for a guardian's allowance in respect of any child is not entitled to it, but that the claimant, or the wife or husband of the claimant, may be entitled to an increase of benefit for that child, the Secretary of State may treat the claim as if it were a claim by the claimant or the wife or husband of the claimant for an increase of benefit for that child.

Claim for sickness benefit etc. where no entitlement to statutory sick pay or statutory maternity pay

10.—(1) Paragraph (2) applies to a claim for sickness benefit, invalidity benefit or severe disablement allowance for a period of incapacity for work of which the claimant gave his employer a notice of incapacity under regulation 7 of the Statutory Sick Pay (General) Regulations 1982(1), and for which he has been informed in writing by his employer that there is no entitlement to statutory sick pay.

(2) A claim to which this paragraph applies shall be treated as made on the date accepted by the claimant's employer as the first day of incapacity, provided that he makes the claim—

- (a) within the appropriate time specified in paragraph 2 of Schedule 4 beginning with the day on which he is informed in writing that he was not entitled to statutory sick pay; or
- (b) on a date after the expiry of that time if he proves that throughout the period from the expiry until that date he had good cause for not making it earlier.

(3) Paragraph (4) applies to a claim for maternity allowance for a pregnancy or confinement by reason of which the claimant gave her employer notice of absence from work under section 46(4) of the Social Security Act 1986 and regulation 23 of the Statutory Maternity Pay (General) Regulations 1986(2) and in respect of which she has been informed in writing by her employer that there is no entitlement to statutory maternity pay.

(4) A claim to which this paragraph applies shall be treated as made on the date when the claimant gave her employer notice of absence from work or at the beginning of the 14th week before the expected week of confinement, whichever is later, provided that she makes the claim—

- (a) within one month of being informed in writing that she was not entitled to statutory maternity pay; or
- (b) on a date after the expiry of that month if she proves that throughout the period from the expiry until that date she had good cause for not making it earlier.

Special provisions where it is certified that a woman is expected to be confined or where she has been confined

11.—(1) Where in a certificate issued or having effect as issued under the Social Security (Medical Evidence) Regulations 1976(3) it has been certified that it is to be expected that a woman will be confined, and she makes a claim for maternity allowance in expectation of that confinement any such claim may, unless the Secretary of State otherwise directs, be treated as a claim for sickness or invalidity benefit or severe disablement allowance made in respect of any days in the period beginning with either—

- (a) the beginning of the 6th week before the expected week of confinement; or
- (b) the actual date of confinement,

whichever is the earlier, and ending in either case on the 14th day after the actual date of confinement.

(2) Where, in a certificate issued under the Social Security (Medical Evidence) Regulations 1976 it has been certified that a woman has been confined and she claims maternity allowance within one

(1) S.I. 1982/894; the relevant amending instruments are S.I. 1984/385 and 1987/372.

(2) S.I. 1986/1960.

(3) S.I. 1976/615; the relevant amending instruments are S.I.s 1982/699, 1984/1303 and 1987/409.

month of that date, her claim may be treated in the alternative or in addition as a claim for sickness or invalidity benefit or severe disablement allowance for the period beginning with the date of her confinement and ending 14 days after that date.

Self-certified claims for first 7 days of a spell of incapacity for work

12.—(1) Where a self-certificate in respect of a claimant is submitted in support of a claim for sickness or invalidity benefit or severe disablement allowance, that claim shall be treated as if made for days, whether or not after the date of the claim, to which the self-certificate relates, not being days later than the first 7 days of a spell of incapacity that exceeds that length.

(2) Where a claim to which paragraph (1) applies includes one or more days subsequent to the date of claim, an award of benefit made in respect of them shall be subject to the condition that the claimant satisfies the requirements for entitlement throughout those days and if those requirements are found not to have been satisfied on any of those days the award shall be reviewed.

(3) For the purposes of this regulation—
“self-certificate” has the meaning ascribed to it by regulation 5 of the Social Security (Medical Evidence) Regulations 1976 (claimant’s declaration of incapacity as evidence for determining his right to benefit);
a “spell of incapacity” means a continuous period of incapacity for work (not excluding bank or other holidays) which is immediately preceded by a day on which the claimant either worked or was not incapable of work.

Advance claims and awards

13.—(1) Where, although a person does not satisfy the requirements for entitlement to benefit on the date on which a claim is made, the adjudicating authority is of the opinion that unless there is a change of circumstances he will satisfy those requirements for a period beginning on a day (“the relevant day”) not more than 3 months after the date on which the claim is made, then that authority may—

- (a) treat the claim as if made for a period beginning with the relevant day; and
- (b) award benefit accordingly, subject to the condition that the person satisfies the requirements for entitlement when benefit becomes payable under the award.

(2) An award under paragraph (1)(b) shall be reviewed by the adjudicating authority if the requirements for entitlement are found not to have been satisfied on the relevant day.

(3) This regulation does not apply to any claim for maternity allowance, attendance allowance, mobility allowance, retirement pension or increase, family credit, or any claim within regulation 11(1)(a) or (b).

Advance claim for and award of maternity allowance

14.—(1) Subject to the following provisions of this regulation, a claim for maternity allowance in expectation of confinement, or for an increase in such an allowance in respect of an adult dependant, and an award on such a claim, may be made not earlier than 14 weeks before the beginning of the expected week of confinement.

(2) A claim for an increase of maternity allowance in respect of an adult dependant may not be made in advance unless, on the date when made, the circumstances relating to the adult dependant concerned are such as would qualify the claimant for such an increase if they occurred in a period for which she was entitled to a maternity allowance.

Advance notice of retirement and claim for and award of pension

15.—(1) A claim for a retirement pension of any category, and for any increase in any such pension, and an award on such a claim, may be made at any time not more than 4 months before the date on which the claimant will, subject to the fulfilment of the necessary conditions, become entitled to such a pension.

(2) A notice for the purpose of section 27(4) of the Social Security Act 1975 (retirement from regular employment) shall be given to the Secretary of State in writing and shall specify a date, being a date not earlier than the date on which the person giving the notice attains pensionable age and not later than the expiration of the period of 4 months after the date on which the notice is given, as the date of that person's retirement.

(3) Where the person giving notice of retirement specifies a date earlier than the date on which he attains pensionable age, the notice shall be treated as if the latter date had been specified.

(4) For the purposes of that section 27(4) the prescribed period shall be the period of 12 months.

(5) Where a person who gives notice of retirement in accordance with paragraph (2) above is, or would but for the fact of his retirement, be in receipt of sickness, invalidity or unemployment benefit for a period which includes the date specified in the notice as the date of his retirement then, if the date so specified is not the appropriate day of the week for payment of retirement pension in his case, the notice shall be treated as if it specified instead the date of the next following such pay day.

(6) Where the spouse of such a person as is mentioned in paragraph (5) above also gives notice of retirement and specifies the same date of retirement as that person the provisions of that paragraph shall apply also to the notice given by the spouse.

(7) For the purposes of facilitating the determination of a subsequent claim for a Category A, B or C retirement pension, a person may at any time not more than 4 months before the date on which he will attain pensionable age, and notwithstanding that he does not intend to retire from regular employment at that date, submit particulars in writing to the Secretary of State in a form approved by him for that purpose with a view to the determination (in advance of the claim) of any question under the Act relating to that person's title to such a retirement pension other than the question of retirement, and subject to the necessary modifications, the provisions of these regulations shall apply to any such particulars.

Date of entitlement under an award for the purpose of payability of benefit and effective date of change of rate

16.—(1) For the purpose only of determining the day from which benefit is to become payable, where a benefit other than one of those specified in paragraph (4) is awarded for a period of a week, or weeks, and the earliest date on which entitlement would otherwise commence is not the first day of a benefit week, entitlement shall begin on the first day of the benefit week next following.

(2) Where there is a change in the rate of any benefit to which paragraph (1) applies the change, if it would otherwise take effect on a day which is not the appropriate pay day for that benefit, shall take effect from the appropriate pay day next following.

(3) For the purposes of this regulation the first day of the benefit week in the case of child benefit is Monday and in any other case except family credit is the day of the week on which the benefit is payable in accordance with regulation 22 (long term benefits).

(4) The benefits specified for exclusion from the scope of paragraph (1) are unemployment benefit, sickness benefit, invalidity benefit, maternity allowance, attendance allowance, severe disablement allowance, income support and family credit and any increase of those benefits.

Duration of awards

17.—(1) Subject to the provisions of this regulation and of section 20(6) of the Social Security Act 1986 (family credit) a claim for benefit shall be treated as made for an indefinite period and any award of benefit on that claim shall be made for an indefinite period.

(2) In the case of a first claim for unemployment benefit in any spell of unemployment none shall be awarded for any period after the date of that claim, but in the case of any subsequent claim made in the same spell of unemployment the adjudicating authority may treat the claim as having been made, and may award benefit, for a period after the date of claim of—

- (a) up to 7 days; and
- (b) whether or not an award has already been made on that claim, where the Secretary of State has certified that either—
 - (i) there are, will be or are likely to be circumstances making impracticable or unduly difficult the normal operation of the provisions governing, or the practice relating to, the claiming, awarding or payment of unemployment benefit; or
 - (ii) he is of the opinion that, as regards any case or class of cases in which the claimant's employment as an employed earner has not been terminated, the awarding and payment of unemployment benefit can be adequately controlled without the application of the usual provisions of these regulations—

up to 26 weeks or the period for which the Secretary of State's certificate is in force (whichever is the shorter), and in this paragraph—

- (i) "spell of unemployment" means any period of one or more days on which a person is unemployed and any two or more such periods, not separated by a period of more than 3 consecutive days which in relation to that person are not days of unemployment, shall be treated as one spell of unemployment; and
 - (ii) in computing any period of time Sundays shall not be disregarded; and
- (c) where a claim has been treated as having been made and an award has been made under sub-paragraph (b) for less than the maximum period permitted by that sub-paragraph the claim may be treated as having been made for further periods and further awards may be made up to that maximum.

(3) If, in any case outside paragraph (2), it would be inappropriate to treat a claim as made and to make an award for an indefinite period (for example where a relevant change of circumstances is reasonably to be expected in the near future) the claim shall be treated as made and the award shall be for a definite period which is appropriate in the circumstances.

(4) In any case where benefit is awarded in respect of days subsequent to the date of claim the award shall be subject to the condition that the claimant satisfies the requirements for entitlement; and where those requirements are not satisfied the award shall be reviewed.

(5) The provisions of Schedule 2 shall have effect in relation to claims for unemployment benefit made during periods connected with public holidays.

Duration of disallowance

18.—(1) Where a claim for a benefit which is specified in column (1) of Schedule 3 is disallowed on the grounds specified in column (2) of that Schedule, any continuation claim for the benefit shall be treated as disallowed until the grounds for the original disallowance have ceased to exist.

(2) For the purposes of paragraph (1) a "continuation claim" for sickness benefit, invalidity benefit or severe disablement allowance has the same meaning as in paragraph 2(c) of Schedule 4 and a "continuation claim" for unemployment benefit means a claim made in respect of a day subsequent to the first day of the period to which the earlier claim relates.

(3) Where a person's claim for unemployment benefit has been disallowed on any grounds other than failure to satisfy contribution conditions and in the decision disallowing that claim it is stated that the decision is to be treated as a disallowance of any further claim by that person for unemployment benefit for specified days until either a period specified in the decision has expired or the grounds of the original disallowance have ceased to exist, the decision shall be so treated.

Time for claiming benefit

19.—(1) Subject to the provisions of Schedule 5 the prescribed time for claiming any benefit specified in column (1) of Schedule 4 shall be the appropriate time specified opposite that benefit in column (2) of that Schedule.

(2) Where the claimant proves that there was good cause, throughout the period from the expiry of the prescribed time for making the claim, for the failure to claim a benefit specified in column (1) of Schedule 4 before the date on which the claim was made the prescribed time shall, subject to section 165A of the Social Security Act 1975 (12 months limit on entitlement before the date of claim) and paragraphs (4) and (5), be extended to the date on which the claim is made.

(3) Where a claim is made for any benefit specified in column (1) of Schedule 4 and the Secretary of State certifies that to do so would be consistent with the proper administration of the Social Security Acts, the prescribed time shall be extended to one month.

(4) The prescribed time for claiming income support, family credit or a social fund payment for maternity or funeral expenses shall not be extended under paragraph (2) so as to give entitlement to benefit in respect of any period or, as the case may be, any birth, adoption or funeral occurring, more than 12 months before the date of claim.

(5) Where a claimant for a social fund payment for maternity expenses in respect of an adoption makes a claim on a date between 3 and 12 months from the date of the adoption order and proves that there was good cause, throughout the period from the expiry of the 3 months for the failure to make the claim before it was made, the claim shall be treated as if it had been made immediately before the expiry of the 3 months.

(6) The prescribed time for claiming benefits not specified in column (1) of Schedule 4 shall be—

- (a) six months in the case of guardian's allowance, child benefit and any increase in any benefit (other than income support) in respect of a child or adult dependant;
- (b) twelve months in the case of retirement pension of any category except the Category B retirement pension to which a woman is entitled by virtue of section 29(5) of the Social Security Act 1975, graduated retirement benefit⁽⁴⁾, widow's benefit and any benefit under section 39(4) of that Act corresponding to a widow's pension or a widowed mother's allowance, maternity allowance or invalid care allowance.

(7) The periods of six and twelve months prescribed by paragraph (6) are calculated from any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to the benefit concerned.

(4) Graduated Retirement Benefit is payable under section 36 of the National Insurance Act 1965 (c. 51). Section 36 was repealed by the Social Security Act 1973 (c. 38) but is continued in force by regulation 3 of the Social Security (Graduated Retirement Benefit) (No.2) Regulations 1978 (S.I. 1978/393) in the modified form set out in the Schedule to those Regulations.