STATUTORY INSTRUMENTS

1994 No. 2319

The Social Security (Claims and Payments) Amendment Regulations 1994

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Claims and Payments) Amendment Regulations 1994 and shall come into force on 3rd October 1994.

(2) In these Regulations, unless the context otherwise requires, any reference to a numbered paragraph, regulation or Schedule is a reference to the paragraph, regulation or Schedule bearing that number in the Social Security (Claims and Payments) Regulations 1987(**1**).

Amendment of regulation 6

2. In paragraph (9) of regulation 6 (date of claim), for the words "In paragraph (8)" there shall be substituted the words "In paragraphs (8) and (8A)".

Amendment of regulation 13

3.—(1) Regulation 13 (advance claims and awards) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (3), for the words "Subject to paragraph (4), this regulation does not" there shall be substituted the words "Subject to paragraph (4), paragraphs (1) and (2) do not".

(3) After paragraph (5) there shall be added the following paragraph—

> "(6) Where a person claims family credit or disability working allowance but does not satisfy the requirements for entitlement to that benefit on the date on which the claim is made, and the adjudicating authority is of the opinion that he will satisfy those requirements for a period beginning on a day not more than 3 days after the date on which the claim is made, the adjudicating authority may treat the claim as if made for a period beginning with that day, and award benefit accordingly.".

Amendment of regulation 21

4. In paragraph (1) of regulation 21 (direct credit transfer), after the word "spouse" in both places where it occurs there shall be inserted the words "or partner".

Amendment of regulation 30

5.—(1) Paragraph (6B) of regulation 30 (payments on death) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (b) the words "and the Secretary of State has appointed him" shall be omitted.

(**1**) S.I.1987/1968; relevant amending instruments are S.I. 1990/2208, 1991/2284, 1991/2741, 1992/247, 1992/1026, 1993/495, 1993/2113.

(3) After sub-paragraph (b) there shall be inserted the following sub-paragraph—

"(ba) that that person has been appointed by the Secretary of State to make the claim;".

Insertion of regulations 37AA and 37AB

6. After regulation 37A there shall be inserted the following regulations—

"**Withholding of benefit in prescribed circumstances**

37AA.—(1) Where a person who is in receipt of benefit fails to comply with the provisions of regulation 32(1), in so far as they relate to documents, information or facts required by the Secretary of State, that benefit may be withheld, in whole or in part, from a date not earlier than 28 days after the date on which the requirement is imposed.

(2) Where the Secretary of State is satisfied that the last known address of a person who is in receipt of benefit is not the address at which that person is residing or that a serious doubt exists as to whether that person is residing at that address, that benefit may be withheld from the date on which the Secretary of State is so satisfied or such later date as he may determine.

(3) Where it appears to the Secretary of State that a person who is claiming income support is, under the provisions of regulation 8, required to attend an unemployment benefit office in person, but that person has failed to do so, benefit may be withheld from a date not earlier than the date following that on which that person last attended an unemployment benefit office under the provisions of regulation 8.

(4) Where a person—

(a) claims any benefit, and entitlement to that benefit depends on his being incapable of work during the period to which his claim relates; or

(b) claims income support, but is not required to be available for employment by virtue of paragraph 5 of Schedule 1 to the Income Support (General) Regulations1987(**2**)

and that person fails to provide evidence of incapacity in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976(**3**)(evidence of incapacity for work), that benefit may be withheld from the date from which he has ceased to comply with the requirements of that regulation, or as soon as practicable thereafter.

Payment of withheld benefit

37AB.—(1) Subject to paragraph (2), where the circumstances in which any benefit that has been withheld under the provisions of regulation 37AA no longer exist, and—

(a) the Secretary of State is satisfied that no question arises in connection with the award of that benefit, payments of that benefit shall be made;

(b) a question arises in connection with the award of that benefit and that question has been determined, payments of benefit that the beneficiary is entitled to in accordance with that determination shall be made.

(2) Subject to paragraph (3)—

(a) a payment of any sum by way of benefit shall not be made under paragraph (1) after the expiration of a period of 12 months from the date the right to that payment arose;

(**2**) S.I. 1987/1967; the relevant amending instrument is S.I. 1994/527.
(**3**) S.I. 1976/615; relevant amending instruments are S.I. 1982/699, 1987/409, 1992/247.

(b) where a person from whom benefit has been withheld satisfies the adjudicating authority that there was good cause for his failure to act from a day within the period specified in sub-paragraph (a) and continuing after the expiration of that period, the period specified in that sub-paragraph shall be extended to the date on which the adjudicating authority is so satisfied, or the date on which good cause ceases, whichever is the earlier.

(3) For the purposes of paragraph (2), the following periods shall be disregarded—

(a) any period during which the Secretary of State possesses information which is sufficient—

(i) to enable him to be satisfied that no question arises in connection with the award of that benefit, or

(ii) to enable him to decide that a question does arise in connection with the award of that benefit;

(b) in a case where a question in connection with the award of the benefit arises, the period commencing on the date the question is submitted to an adjudication officer and ending on the date that question is finally determined.”.

Amendment of Schedule 9

7.—(1) Schedule 9 (deductions from benefit and direct payment to third parties) shall be amended in accordance with the following provisions of this regulation.

(2) In sub-paragraph (1) of paragraph 6, for the words “including any charges for reconnection of gas or electricity” there shall be substituted the words “including any charges for the reconnection of gas or disconnection or reconnection of electricity”.

(3) In sub-paragraph (1) of paragraph 7, for the words “including any reconnection charges arising out of that debt” there shall be substituted the words “including any disconnection or reconnection charges and any other costs (including legal costs) arising out of that debt”.

(4) In sub-paragraph (1) of paragraph 8, for the words “regulation 2 of the Council Tax Regulations” there shall be substituted the words “regulation 7 of the Council Tax Regulations”.

Signed by authority of the Secretary of State for Social Security

Department of Social Security
6th September 1994

William Hague
Minister of State,