
STATUTORY INSTRUMENTS

1996 No. 1518

SOCIAL SECURITY

**The Social Security (Adjudication)
Amendment Regulations 1996**

Made - - - - *11th June 1996*
Coming into force - - *7th October 1996*

Whereas a draft of this instrument was laid before Parliament in accordance with section 37(2) of the Jobseekers Act 1995(1) and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Security, in exercise of the powers conferred by sections 27(1), 59, 61(1) and (2), 189(1) and (4) and 191 of, and Schedule 3 to, the Social Security Administration Act 1992(2) and sections 31, 35(1) and 36 of, and paragraph 4 of Schedule 1 to, the Jobseekers Act 1995(3), and of all other powers enabling him in that behalf, by this instrument which contains only regulations consequential upon the Jobseekers Act 1995 and which is made before the end of the period of 6 months beginning with the coming into force of that Act(4), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security (Adjudication) Amendment Regulations 1996 and shall come into force on 7th October 1996.

Amendment of the Social Security (Adjudication) Regulations 1995

2.—(1) The Social Security (Adjudication) Regulations 1995(5) are amended in accordance with the following provisions of this regulation.

(2) In paragraph (2) of regulation 1—

(a) for the definition of “the Acts” there is substituted the following definition—

““the Acts” means the Social Security Contributions and Benefits Act 1992, the Social Security Administration Act 1992 and the Jobseekers Act 1995;” and

(1) 1995 c. 18
(2) 1992 c. 5. The Act was amended in respect of jobseeker’s allowance by paragraphs 38 to 74 of Schedule 2 to the Jobseekers Act 1995 (c. 18). Section 191 is an interpretation provision and is cited for the definition of “prescribe”.
(3) Section 35(1) is an interpretation provision and is cited for the definitions of “prescribed” and “regulations”.
(4) See the Social Security Administration Act 1992, section 173(5)(b).
(5) S.I.1995/1801. The relevant amending instruments are S.I. 1995/2927 and 1996/425.

- (b) there are inserted at the appropriate places the following definitions
- ““the Jobseekers Act” means the Jobseekers Act 1995;
- “the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(6);”.
- (3) For Section B of Part IV there is substituted the following Section—

“SECTION B—

INCOME SUPPORT AND JOBSEEKER’S ALLOWANCE

Notification of decisions in income support and jobseeker’s allowance cases

55.—(1) Subject to paragraphs (2) to (4), where an adjudication officer has given a decision on any claim or question relating to income support or jobseeker’s allowance, the claimant shall be notified in writing of the effect of that decision and he shall at the same time be notified of his right to request a statement of the reasons for the decision and of his right of appeal to an appeal tribunal.

(2) Where, under arrangements made by the Secretary of State either throughout or in any part of Great Britain, income support is payable together with another benefit under the Contributions and Benefits Act, notice of the aggregate amount so payable shall be notice for the purpose of paragraph (1).

(3) Written notice shall not be required of a determination awarding benefit which is implemented by a cash payment if in all the circumstances it would be impracticable to do so.

(4) Written notice shall not be required of a determination terminating entitlement to income support or jobseeker’s allowance if the reason for the termination is already known to the claimant or it is otherwise reasonable in the circumstances not to give such notice.

(5) So far as may be practicable, and subject to paragraph (6), where a claimant is notified of a decision under paragraph (1) or (2) the Secretary of State shall also give or send him a written notice of assessment showing—

- (a) the total amounts of the personal allowances, family premium, other premiums and housing costs determined under Part IV of the Income Support Regulations or, as the case may be, Part VII of the Jobseeker’s Allowance Regulations as are appropriate in his case; and
 - (b) the income taken into account; and
 - (c) any personal expenses addition, special transitional addition and transitional addition payable under the Income Support (Transitional) Regulations 1987(7), any transitional supplement payable under regulation 87 of the Jobseeker’s Allowance Regulations and any transitional allowance payable by virtue of regulations made under section 40(2) of the Jobseekers Act.
- (6) Paragraph (5) shall not apply to any determination—
- (a) that income support or income-based jobseeker’s allowance is not payable for any reason other than that the claimant’s income exceeds the applicable amount;
 - (b) made on review under paragraph (3) of regulation 63 or paragraph (4) of regulation 63A, or, where the Secretary of State considers a written notice of assessment unnecessary, under any other provision of those regulations;

(6) S.I. 1996/207.

(7) S.I. 1987/1969.

- (c) in respect of a claimant to whom section 127 of the Contributions and Benefits Act (return to work after a trade dispute) applies.

(7) If, within the time limited by regulation 3 and Schedule 2 for the bringing of an appeal against an adjudication officer's decision, the claimant requests a statement of the reasons for that decision, he shall be given such a statement in writing and shall again be informed of his right of appeal.

Income support and social fund questions not immediately determinable

56.—(1) Where on consideration of a claim or question relating to income support or to payment of maternity expenses from the social fund under Part VIII of the Contributions and Benefits Act it appears to an adjudication officer that the claimant's entitlement to, or the rate or amount of, such benefit depends on the determination of—

- (a) the question as to what housing costs are to be included in the claimant's applicable amount by virtue of regulation 17(1)(e) or 18(1)(f) of, and Schedule 3 to, the Income Support Regulations (applicable amounts) and the adjudication officer is satisfied that not all of those housing costs can be immediately determined, he shall proceed to determine the claim or question on the assumption that the housing costs to be included in the claimant's applicable amount are those that can be immediately determined;
- (b) any of the questions mentioned in paragraph (3), and he is satisfied that the question cannot be immediately determined, he shall proceed to determine the claim or question on the assumption that the determination of the question so mentioned will be adverse to the claimant.

(2) Without prejudice to the power of an adjudication officer to refer any claim or question to an appeal tribunal under section 21(2) of the Administration Act and notwithstanding the provisions of section 22 of that Act, on an appeal to an appeal tribunal in any case where the adjudication officer has applied the provisions of paragraph (1) in relation to any of the questions mentioned or referred to in that paragraph, the tribunal shall not determine any such question until it has been determined by an adjudication officer.

(3) The questions referred to in sub-paragraph (1)(b) are—

- (a) whether 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);
- (b) whether for the purposes of regulation 12 of the Income Support Regulations (relevant education) a person is by virtue of that regulation to be treated as receiving relevant education;
- (c) whether in relation to any claimant the applicable amount includes severe disability premium by virtue of regulation 17(1)(d) or 18(1)(e) of, and paragraph 13 of Schedule 2 to, the Income Support Regulations.

Jobseeker's allowance questions not immediately determinable

56A.—(1) Where on consideration of a claim or question relating to jobseeker's allowance it appears to an adjudication officer that the claimant's entitlement to, or the rate or amount of, that allowance depends on the determination of any of the questions mentioned in paragraph (2), and he is satisfied that the question cannot be immediately determined, he shall proceed to determine the claim or question on the assumption that the determination of the question so mentioned will be adverse to the claimant.

(2) The questions referred to in paragraph (1) are—

- (a) whether 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);
 - (b) whether 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.
- (3) Where—
- (a) a person has made a claim for a jobseeker's allowance; and
 - (b) the adjudication officer is satisfied that the claimant satisfies the requirements for entitlement to a jobseeker's allowance specified in sections 1(2) and 2 or 3 of the Jobseekers Act; but
 - (c) the adjudication officer is unable to determine for the time being a question arising under section 19 of that Act,

then the adjudication officer shall, pending the determination of that question, determine the claim on the assumption that section 19 does not restrict payment of benefit.

(4) Without prejudice to the power of the adjudication officer to refer any claim or question to an appeal tribunal under section 21(2) of the Administration Act and notwithstanding the provisions of section 22 of that Act, on an appeal to an appeal tribunal in any case where the adjudication officer has applied the provisions of paragraphs (1) or (3) in relation to any of the questions mentioned or referred to in those paragraphs, the tribunal shall not determine any such question until it has been determined by an adjudication officer.

(5) A determination made pursuant to paragraph (3) shall be reviewed by an adjudication officer or, on a reference by him, by an appeal tribunal, where it is necessary to give effect to a determination given on a question arising under section 19 of the Jobseekers Act.

(6) A determination on review undertaken in consequence of a decision on a question arising under section 19 of the Jobseekers Act shall have effect—

- (a) except where sub-paragraph (b) applies, from the day immediately following the end of the benefit week in which the determination was made; or
- (b) where in accordance with regulation 26A(1) of the Social Security (Claims and Payments) Regulations 1987⁽⁸⁾ a jobseeker's allowance is paid otherwise than fortnightly in arrears, and notwithstanding the provisions of regulation 69 of the Jobseeker's Allowance Regulations, from the day immediately following the end of the last benefit week in respect of which a jobseeker's allowance was paid.

(7) Where in consequence of the determination of any question arising under section 19 of the Jobseekers Act, a jobseeker's allowance is not payable, the period in respect of which it is not payable shall begin on the date the revised determination takes effect.

(8) In this regulation "benefit week" has the same meaning as in regulation 1(3) of the Jobseeker's Allowance Regulations.

Termination of awards of income support or jobseeker's allowance where alternative benefit is claimed

56B.—(1) This regulation applies in a case where an award of income support or jobseeker's 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 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.

(8) S.I. 1987/1968. Regulation 26A was inserted by S.I. 1996/1460, regulation 2(14).

(2) In a case to which this regulation applies, if, but only if, a claim for the alternative benefit is made an adjudication officer 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), an adjudication officer 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 the award of the alternative benefit has effect.

(4) Where an award of 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.”.

(4) In the heading to, and in paragraph (1) of, regulation 59, after the words “income support” there are inserted the words “, jobseeker's allowance”.

(5) In paragraph (4) of regulation 63, sub-paragraph (a) is omitted.

(6) After regulation 63 there is inserted the following regulation—

“Review in jobseeker's allowance cases

63A.—(1) Except in a case to which regulation 57(2) or (3) or regulation 58 applies, and subject to paragraph (2), a determination on a claim or question relating to jobseeker's allowance shall not be revised on review under section 25 of the Administration Act so as to make jobseeker's allowance payable or to increase the amount of jobseeker's allowance payable in respect of—

- (a) in a case where the award which is being reviewed—
 - (i) was made solely on the basis that the claimant satisfied the conditions for a contribution-based jobseeker's allowance; and
 - (ii) the application for review is made on the basis that he now satisfies the conditions for an income-based jobseeker's allowance, any period which falls before the date on which the review was applied for or, where no application is made, the date of the review; or
- (b) in a case not falling within sub-paragraph (a) above, any period which falls more than 12 months before the date on which the review was requested or, where no request is made, the date of the review; or
- (c) in any case, any past period which fall within the period of 12 months mentioned in sub-paragraph (b) above and which has been followed by termination or interruption of entitlement to jobseeker's allowance and where—
 - (i) the total amount of the increase would be £5 or less; or
 - (ii) the ground for review are a material fact or relevant change of circumstances of which the claimant was aware but of which he previously failed to furnish information to the Secretary of State.

(2) Sub-paragraph (1)(a) shall not apply so as to prevent the payment of a jobseeker's allowance or an increase in the amount of that allowance in respect of any period not more than 12 months before the date on which the review was requested or, as the case may be, made, if the claimant proves that throughout that period he had good cause for failing to apply for a review.

(3) Section 159A of the Administration Act(9) (which relates to the effect of alterations in the component rates of jobseeker's allowance) shall not apply to any award of jobseeker's

(9) Section 159A was inserted by section 24 of the Jobseekers Act 1995.

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 jobseeker's allowance by virtue of paragraph (3), that award may be reviewed by an adjudication officer or, on reference by him, by an appeal tribunal for the sole purpose of giving effect to any change made by an order under section 150 of the Administration Act.

(5) A determination relating to jobseeker's allowance made by an adjudicating authority or a Commissioner shall be reviewed by an adjudication officer or, on reference by him, by an appeal tribunal where this is necessary to give effect to—

- (a) a determination given on a question to which regulation 56A applies; or
- (b) a change of circumstances to which regulation 14 (reduction and termination of transitional and personal expenses addition) and regulation 15 (special transitional addition) of the Income Support (Transitional) Regulations 1987⁽¹⁰⁾ apply by virtue of regulation 87(1) of the Jobseeker's Allowance Regulations.

(6) Where a claimant in receipt of a jobseeker's allowance lives in a nursing home or residential care home and he is absent from that home for a period of less than one week, that absence shall not be treated as a relevant change of circumstances for the purposes of section 25(1)(b) and (c) of the Administration Act.

(7) In paragraph (6), "nursing home" and "residential care home" have the same meanings as they have in regulation 1(3) of the Jobseeker's Allowance Regulations.

(8) 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 (failed to complete a course of training and no certificate has been issued to him under subsection (4) of section 17 with respect to that failure) applies in his case; and
- (b) that determination falls to be reviewed 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 determination given on review shall have effect from the same date as the determination under review had effect."

(7) In regulation 64, after the words "regulation 66A of the Income Support Regulations" there are inserted the words ", regulation 136 of the Jobseeker's Allowance Regulations".

(8) In Schedule 2, in Column (2) of paragraph 11, after the words "unemployment benefit" there are inserted the words "or jobseeker's allowance".

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

Department of Social Security
11th June 1996

Roger Evans
Parliamentary Under-Secretary of State,

⁽¹⁰⁾ S.I. 1987/1969; relevant amending instruments are S.I. 1988/521 and 670, 1989/1626 and 2340, 1990/2324, 1991/387 and 1600 and 1992/1326.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Social Security (Adjudication) Regulations 1995 in consequence of the replacement of unemployment benefit and income support for the unemployed by jobseeker's allowance under the Jobseekers Act 1995.

The principal amendments are to Sections B and C of Part IV which deal with notification of decisions, questions not immediately determinable and reviews of decisions. These are amended so as to make provision in relation to jobseeker's allowance which is comparable to that made in relation to income support. Also a new regulation is inserted which provides that where a person is in receipt of jobseeker's allowance and he or his partner wishes to claim income support instead, or vice versa, the adjudication officer may stop the payment of the claimant's current benefit if he is satisfied that the claimant or his partner will become entitled to the other benefit. The regulation also provides that when a person claims jobseeker's allowance under this procedure he will not have to serve the normal three "waiting days" before he becomes entitled to the allowance.

These Regulations are made before the end of the period of 6 months beginning with the commencement of the Jobseekers Act 1995 and contain only provisions consequential upon that enactment. Accordingly they are exempt from reference to the Social Security Advisory Committee under section 173(5)(b) of the Social Security Administration Act 1992 and no such reference has been made.

These Regulations do not impose any costs on business.