

This instrument revokes and replaces S.I.1997/2239 which was published on 22 September 1997, but not laid due to a defect. It is being issued free of charge to all known recipients of that Statutory Instrument.

STATUTORY INSTRUMENTS

1997 No. 2290

SOCIAL SECURITY

The Social Security (Claims and Payments and Adjudication) Amendment No. 2 Regulations 1997

<i>Made</i>	- - - -	<i>23rd September</i>
		<i>1997</i>
<i>Laid before Parliament</i>		<i>23rd September</i>
		<i>1997</i>
<i>Coming into force in accordance with regulation 1(1)</i>		

The Secretary of State for Social Security, in exercise of the powers conferred by sections 5(1)(a) and (b), 27(1), 61(1), 189(1) and (3) to (5) and 191 of the Social Security Administration Act 1992⁽¹⁾, and of all other powers enabling her in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it⁽²⁾, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Claims and Payments and Adjudication) Amendment No. 2 Regulations 1997 and shall come into force—

- (a) for the purposes of this regulation and regulation 8, on 24th September 1997.
- (b) for the purposes of regulations 2 to 7, on 13th October 1997.

(2) In these Regulations—

“the Adjudication Regulations” means the Social Security (Adjudication) Regulations 1995⁽³⁾;

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987⁽⁴⁾.

(1) 1992 c. 5; sections 5 and 61 were amended by the Jobseekers Act 1995 (c. 18), Schedule 2, paragraphs 39 and 45. Section 191 is an interpretation provision and is cited for the definition of “prescribe”.

(2) See section 173(1)(b) of the Social Security Administration Act 1992.

(3) S.I. 1995/1801.

(4) S.I. 1987/1968.

Amendment of regulation 59 of the Adjudication Regulations

2. In regulation 59 of the Adjudication Regulations⁽⁵⁾ (review of decisions involving payment or increase of certain benefits), after paragraph (1B)⁽⁶⁾ there shall be inserted the following paragraph—

“(1C) Subject to regulation 58, where, in the case of attendance allowance or disability living allowance, the decision is reviewed under section 30(1) of the Administration Act (application within the prescribed period), or under that subsection as applied by section 31(2) or 35(8) of that Act, the decision given on review shall have effect from such date as may be specified in the decision, being a date not earlier than—

- (a) where the decision being reviewed is also a review decision or a refusal to review (“the first review”), one month before the date of application for the first review;
- (b) in any other case, the date of claim.”

Amendment of regulation 63 of the Adjudication Regulations

3.—(1) Regulation 63 of the Adjudication Regulations⁽⁷⁾ (review in income support cases) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)(b) at the end the word “or” shall be added, and after sub-paragraph (b) there shall be added the following sub-paragraph—

“(c) in a case to which paragraph (1B) applies, any period which falls more than 8 weeks before the date on which the review was requested or, where no request is made, the date of the review.”

(3) In paragraph (1A)⁽⁸⁾ for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

- “(a) the reason for the revised determination is that the claimant or a member of his family has become entitled to another benefit, or to an increase in the rate of another benefit, and
- (b) that other benefit or increase is awarded in respect of a period before the one-month period.”

(4) After paragraph (1A) there shall be inserted the following paragraph—

“(1B) This paragraph applies where—

- (a) on a review it is determined that there is to be included in the claimant’s applicable amount an amount in respect of a loan which qualifies under paragraph 15 or 16 of Schedule 3 to the Income Support Regulations; and
- (b) the determination could not have been made earlier because information necessary to make the determination, requested otherwise than in accordance with paragraph 10(3)(b) of Schedule 9A to the Social Security (Claims and Payments) Regulations 1987⁽⁹⁾ (annual requests for information), had not been supplied to the Secretary of State by the lender.”

Amendment of regulation 63A of the Adjudication Regulations

4.—(1) Regulation 63A of the Adjudication Regulations⁽¹⁰⁾ (review in jobseeker’s allowance cases) shall be amended in accordance with the following provisions of this regulation.

⁽⁵⁾ Relevant amending instruments are S.I. 1996/425 and 1518 and 1997/793.

⁽⁶⁾ Paragraphs (1A) and (1B) were inserted by S.I. 1997/793.

⁽⁷⁾ Relevant amending instrument is S.I. 1997/793.

⁽⁸⁾ Paragraph (1A) was inserted by S.I. 1997/793.

⁽⁹⁾ S.I. 1987/1968. Schedule 9A was inserted by S.I. 1992/1026; relevant amending instrument is S.I. 1996/1460.

⁽¹⁰⁾ Regulation 63A was inserted by S.I. 1996/1518; relevant amending instrument is S.I. 1997/793.

(2) In paragraph (1)(c) at the end the word “or” shall be added, and after sub-paragraph (c) there shall be added the following sub-paragraph—

“(d) in a case to which paragraph (1B) applies, any period which falls more than 8 weeks before the date on which the review was requested or, where no request is made, the date of the review.”.

(3) In paragraph (1A)(11) for sub-paragraphs (a) and (b) there shall be substituted the following sub-paragraphs—

“(a) the reason for the revised determination is that the claimant or a member of his family has become entitled to another benefit, or to an increase in the rate of another benefit, and

(b) that other benefit or increase is awarded in respect of a period before the one-month period.”.

(4) After paragraph (1A) there shall be inserted the following paragraph—

“(1B) This paragraph applies where—

(a) on a review it is determined that there is to be included in the claimant’s applicable amount an amount in respect of a loan which qualifies under paragraph 14 or 15 of Schedule 2 to the Jobseeker’s Allowance Regulations; and

(b) the determination could not have been made earlier because information necessary to make the determination, requested otherwise than in accordance with paragraph 10(3)(b) of Schedule 9A to the Social Security (Claims and Payments) Regulations 1987 (annual requests for information), had not been supplied to the Secretary of State by the lender.”.

Amendment of regulation 6 of the Claims and Payments Regulations

5. In regulation 6 of the Claims and Payments Regulations(12) (date of claim) at the end there shall be added the following paragraph—

“(29) In the case of a claim for an increase of severe disablement allowance or of invalid care allowance in respect of a child or adult dependant, paragraphs (16) and (21) shall apply to the claim as if it were a claim for severe disablement allowance or, as the case may be, invalid care allowance.”.

Amendment of regulation 19 of the Claims and Payments Regulations

6.—(1) Regulation 19(7) of the Claims and Payments Regulations(13) (time for claiming benefit) shall be amended in accordance with the following provisions of this regulation.

(2) At the end of sub-paragraph (f) the word “or” shall be omitted.

(3) In sub-paragraph (g) for the word “sister.” there shall be substituted the words “sister; or”.

(4) After sub-paragraph (g) there shall be added the following sub-paragraph—

“(h) in the case of a claim for disability working allowance, the claimant had previously been entitled to income support, jobseeker’s allowance, incapacity benefit or severe disablement allowance (“the previous benefit”), and the claim for disability working allowance was made within one month of expiry of entitlement to the previous benefit.”.

(11) Paragraph (1A) was inserted by S.I. 1997/793.

(12) Relevant amending instruments are S.I. 1988/522, 1989/1686, 1990/725 and 2208, 1991/2284 and 2741, 1993/2113, 1994/2319, 1996/1460 and 2431 and 1997/793.

(13) Regulation 19 was substituted by S.I. 1997/793.

Transitional provision

7. In a case to which regulation 59(1C)(a) of the Adjudication Regulations applies, where the application for the first review referred to in that provision was made on or before 6th April 1997, regulation 59 of the Adjudication Regulations shall apply with the following modifications—

- (a) as if in paragraph (1C)(a), for the words “one month” there were substituted the words “subject to paragraph (1D), three months”;
- (b) as if after paragraph (1C) there were inserted the following paragraph—

“(1D) Subject to the following provisions of this regulation, in a case to which paragraph (1C)(a) applies where the claimant proves that—

- (a) on a date earlier than three months before the date of the application for the first review, he was (apart from the condition of making a claim) entitled to benefit or to a higher rate of benefit; and
- (b) throughout the period between that earlier date and the date on which the application for the first review was made, there was good cause for delay in making the application,

the decision given on review shall have effect either on that earlier date or twelve months before the date on which the application for the first review was made, whichever is the later.”; and

- (c) as if in paragraph (5)(c)(14) for the words “one month” there were substituted the words “three months”.

Revocation

8. The Social Security (Claims and Payments and Adjudication) Amendment Regulations 1997(15) are hereby revoked.

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

23rd September 1997

Frank Field
Minister of State,
Department of Social Security

(14) Relevant amending instrument is S.I. [1997/793](#).

(15) S.I. [1997/2239](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Social Security (Adjudication) Regulations 1995 (S.I. [1995/1801](#)) and the Social Security (Claims and Payments) Regulations 1987 (S.I. [1987/1968](#)) in the following respects:

they alter the period over which reviews are backdated in certain cases in respect of claims for attendance allowance and disability living allowance (regulation 2) and income support and jobseeker's allowance (regulations 3 and 4);

they specify the circumstances in which a claim for a dependant's increase of severe disablement allowance or invalid care allowance is treated as made on an earlier date (regulation 5);

they specify further circumstances in which the time for claiming disability working allowance may be extended (regulation 6);

they make special transitional provision for backdating reviews of attendance allowance and disability living allowance in certain cases (regulation 7).

These Regulations replace the Social Security (Claims and Payments and Adjudication) Amendment Regulations 1997 (S.I. [1997/2239](#)), which are revoked because of a technical defect in the commencement provision; the revocation is provided for in regulation 8.

These Regulations do not impose any costs on business.