

**1999 No. 991**

**SOCIAL SECURITY**

**FAMILY LAW**

**CHILD SUPPORT**

**The Social Security and Child Support (Decisions and  
Appeals) Regulations 1999**

*Made - - - - 26th March 1999  
Coming into force in accordance with regulation 1(2)*

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Whereas a draft of this Instrument was laid before Parliament in accordance with section 80(1) of the Social Security Act 1998(a) and approved by resolution of each House of Parliament;

Now, therefore, the Secretary of State for Social Security, in exercise of powers set out in Schedule 1 to this Instrument and of all other powers enabling him in that behalf, with the concurrence of the Lord Chancellor in so far as the Regulations are made under section 6(3) of the Social Security Act 1998, by this Instrument, which contains only regulations made by virtue of, or consequential upon, those provisions of the Social Security Act 1998 and which is made before the end of the period of six months beginning with the coming into force of those provisions(b), after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(c), hereby makes the following Regulations:

## PART I

### GENERAL

#### Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security and Child Support (Decisions and Appeals) Regulations 1999.

(2) These Regulations shall come into force—

- (a) in so far as they relate to child support and for the purposes of this regulation and regulation 2 on 1st June 1999;
- (b) in so far as they relate to—
  - (i) industrial injuries benefit, guardian’s allowance and child benefit; and
  - (ii) a decision made under the Pension Schemes Act 1993(d) by virtue of section 170(2) of that Act;

on 5th July 1999;

- (c) in so far as they relate to retirement pension, widow’s benefit, incapacity benefit, severe disablement allowance and maternity allowance, on 6th September 1999;
- (d) in so far as they relate to family credit and disability working allowance [▶<sup>1</sup>working families’ tax credit and disabled person’s tax credit◀], on 5th October 1999;
- (e) in so far as they relate to attendance allowance, disability living allowance, invalid care allowance, jobseeker’s allowance, credits of contributions or earnings, home responsibilities protection and vaccine damage payments, on 18th October 1999; and
- (f) for all remaining purposes, on 29th November 1999.

(3) In these Regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1998;

“the 1997 Act” means the Social Security (Recovery of Benefits) Act 1997(e);

▶<sup>2</sup>◀

<sup>1</sup>Words in square brackets substituted in reg. 1(2)(d) for “family credit & disability working allowance” purposes only by reg. 3 of S.I. 1999/2570 as from 5.10.99.

<sup>2</sup>Defn. of “the Arrears, Interest and Adjustment of Maintenance Assessment Regulations” omitted by reg. 6(2) of S.I. 2012/2785 as from 10.12.12.

(a) 1998 c. 14.

(b) See Section 173(5)(b) of the Social Security Administration Act 1992 (c. 5).

(c) 1992 c. 53.

(d) 1993 c. 48; section 170 was substituted by paragraph 131 of Schedule 7 to the Social Security Act 1998.

(e) 1997 c. 27.

## Reg. 1

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, defn. of "Arrears, Interest & Adjustment of Maintenance Assessment Regulations" is reproduced below.*

<sup>1</sup>Defn. of "the Arrears, Interest and Adjustment of Maintenance Assessments Regulations" inserted by reg. 2 of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

<sup>2</sup>Defn. of "assessed income period" inserted in reg. 1(3) by reg. 16(a) of S.I. 2002/3019 as from 7.4.03.

<sup>3</sup>Words substituted in defn. of "appeal" by art. 96(a) of S.I. 2008/2683 as from 3.11.08.

<sup>4</sup>Defn. of "the Board" inserted by reg. 3 of S.I. 1999/1662 as from 5.7.99.

<sup>5</sup>Words substituted in defn. of "claimant" by reg. 16(b) of S.I. 2002/3019 as from 7.4.03.

<sup>6</sup>Words in defn. of "the board" substituted and defns. of "contributory ESA", "the ESA regs", "failure determination" inserted by reg. 30(a)-(c) of S.I. 2008/1554 as from 27.10.08.

<sup>7</sup>Words substituted in defn. of "claimant" by reg. 3(2)(a)(ii) of S.I. 1999/1662 (c. 47) as from 5.7.99.

<sup>8</sup>Defn. of "clerk to the appeal tribunal" omitted by art. 96(e) of S.I. 2008/2683 as from 3.11.08.

<sup>9</sup>Defn. of "the Commission" omitted by reg. 113(2)(a) of S.I. 2012/2007 as from 1.8.12.

<sup>10</sup>Words in square brackets inserted in defn. of "the date of notification" for tax credits purposes only by reg. 4(a) of S.I. 1999/2570 as from 5.10.99.

<sup>11</sup>Defn. of "Deferral of Retirement Pensions etc. Regulations" inserted by reg. 9(2)(a) of S.I. 2005/2677 as from 6.4.06.

<sup>12</sup>Defn. of "designated authority" substituted by Sch. 2, para. 6 of S.I. 2002/1703 as from 30.9.02.

►<sup>1</sup>"the Arrears, Interest and Adjustment of Maintenance Assessment Regulations" means the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992(a);◀

►<sup>2</sup>"assessed income period" is to be construed in accordance with sections 6 and 9 of the State Pension Credit Act;◀

"the Claims and Payments Regulations" means the Social Security (Claims and Payments) Regulations 1987(b);

"appeal" means an appeal to ►<sup>3</sup>the First-tier Tribunal◀;

►<sup>4</sup>"the Board" means the Commissioners of Inland Revenue◀

"claimant" means—

(a) any person who is a claimant for the purposes of section 191 of the Administration Act ►<sup>5</sup> section 35(1) of the Jobseekers Act ►<sup>6</sup>, section 17(1) of the State Pension Credit Act or section 24(1) of the Welfare Reform Act◀◀ or any other person from whom benefit is alleged to be recoverable; and

(b) any person subject to a decision of ►<sup>7</sup>an officer of the Board◀ under the Pension Schemes Act 1993(c);

►<sup>8</sup>◀

►<sup>6</sup>"contributory employment and support allowance" means a contributory allowance under Part 1 of the Welfare Reform Act;◀

►<sup>9</sup>◀

"the date of notification" means—

(a) the date that notification of a decision of the Secretary of State [►<sup>10</sup>or an officer of the Board◀] is treated as having been given or sent in accordance with regulation 2(b); or

(b) in the case of a social fund payment arising in accordance with regulations made under section 138(2) of the Contributions and Benefits Act—

(i) the date seven days after the date on which the Secretary of State makes his decision to make a payment to a person to meet expenses for heating;

(ii) where a person collects the instrument of payment at a post office, the date the instrument is collected;

(iii) where an instrument of payment is sent to a post office for collection but is not collected and a replacement instrument is issued, the date on which the replacement instrument is issued; or

(iv) where a person questions his failure to be awarded a payment for expenses for heating, the date on which the notification of the Secretary of State's decision given in response to that question is issued;

►<sup>11</sup>"the Deferral of Retirement Pensions etc. Regulations" means the Social Security (Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit) (Miscellaneous Provisions) Regulations 2005(d)◀

►<sup>12</sup>"designated authority" means—

(a) the Secretary of State;

(b) a person providing services to the Secretary of State;

(c) local authority; or

(d) a person providing services to, or authorised to exercise any function of, any such authority;◀

►<sup>6</sup>"the Employment and Support Allowance Regulations" means the Employment and Support Allowance Regulations 2008(e);

(a) S.I. 1992/1816. The relevant amending instruments are S.I. 1995/1045 and S.I. 1999/1501.

(b) S.I. 1987/1968.

(c) 1993 c. 48.

(d) S.I. 2005/454.

(e) S.I. 2008/794.

“failure determination” means a determination by the Secretary of State under regulation 63(1) of the Employment and Support Allowance Regulations that a claimant has failed to satisfy the requirement of regulation 47 or 54 of those Regulations (requirement to take part in a work-focused health related assessment or a work-focused interview);◀

▶<sup>1</sup>“family” has the same meaning as in section 137 of the Contributions and Benefits Act;◀

▶<sup>2</sup>◀◀

▶<sup>3</sup>“the Graduated Retirement Benefit Regulations” means the Social Security (Graduated Retirement Benefit) Regulations 2005(a)◀

▶<sup>4</sup>“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act;◀

“the Income Support Regulations” means the Income Support (General) Regulations 1987(b);

▶<sup>5</sup>“Income Support Work-Related Activity Regulations” means the Income Support (Work-Related Activity) and Miscellaneous Amendments Regulations 2014;◀

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(c);

▶<sup>6</sup>“a joint-claim couple” has the same meaning as in section 1(4) of the Jobseekers Act 1995;

“a joint-claim jobseekers allowance” has the same meaning as in section 1(4) of the Jobseekers Act 1995;◀

▶<sup>2</sup>◀

▶<sup>4</sup>“limited capability for work” has the same meaning as in section 1(4) of the Welfare Reform Act;◀

▶<sup>7</sup>◀

▶<sup>8</sup>◀

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, definitions of “the Maintenance Calculation Procedure Regulations” & “the Maintenance Calculations and Special Cases Regulations” are reproduced below.*

▶<sup>9</sup>“the Maintenance Calculation Procedure Regulations” means the Child Support (Maintenance Calculation Procedure) Regulations 2000(d);

“the Maintenance Calculations and Special Cases Regulations” means the Child Support (Maintenance Calculations and Special Cases) Regulations 2000(e);◀

▶<sup>2</sup>◀

▶<sup>10</sup>◀

<sup>1</sup>Defn. of “family” inserted by reg. 14(a) of S.I. 2000/1596 as from 19.6.00.

<sup>2</sup>Defns. of “financially qualified panel member”, “legally qualified panel member”, “medically qualified panel member”, “out of jurisdiction appeal”, “panel”, “panel member”, “panel member with...” & “president” omitted by para. 96(e) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

<sup>3</sup>Defn. of “Graduated Retirement Benefit Regulations” inserted by reg. 9(2)(b) of S.I. 2005/2677 as from 6.4.06.

<sup>4</sup>Defns. of “income-related ESA” & “limited capability for work” inserted by reg. 30(d) & (e) of S.I. 2008/1554 as from 27.10.08.

<sup>5</sup>Defn. of “income support work-related activity regulations” inserted in reg. 1(3) by reg. 12(2) of S.I. 2014/1907 as from 28.4.14.

<sup>6</sup>Defns. of “a joint-claim couple” & “a joint-claim jobseeker’s allowance” inserted by reg. 4(a) of S.I. 2001/518 as from 19.3.01.

<sup>7</sup>Defn. of “the breach of Community Order Regulations” omitted by reg. 4(2) of S.I. 2010/424. See reg. 1(2) *ibid* for relevant commencement date.

<sup>8</sup>Defns. of “the Maintenance Calculation Procedure regulations” and “the Maintenance Calculations and Special Cases regulations” omitted by reg. 6(2) of S.I. 2012/2785 as from 10.12.12.

<sup>9</sup>Defns. of “the Maintenance Calculation Procedure regulations” and “the Maintenance Calculations and Special Cases regulations” inserted by reg. 2(b) of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

<sup>10</sup>Defn. of “misconceived appeal” omitted by reg. 2(2) of S.I. 2004/3368 as from 21.12.04.

(a) S.I. 2005/2677.

(b) S.I. 1987/1967.

(c) S.I. 1996/207.

(d) S.I. 2000/3185.

(e) S.I. 2000/1596.

## Reg. 1

<sup>1</sup>Defn. of “official error” substituted inserted by reg. 2 of S.I. 2002/1379 as from 20.5.02.

<sup>2</sup>Words “the Commission” in defn. of “official error” and words in defn. “party to the proceedings” omitted by reg. 113(2)(b) & (c) of S.I. 2012/2007 as from 1.8.12.

<sup>3</sup>Words in defn. of “official error”, substituted by para. 96(b) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

<sup>4</sup>Defn. of “president” omitted by para. 96(e) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

<sup>5</sup>Defn. of “partner” inserted by reg. 2 of S.I. 2002/1379 as from 20.5.02.

<sup>6</sup>Words substituted in defns. of “party to the proceedings” & “referral” & defns. of “panel”, “panel member”, panel member with ...” & “president” omitted by para. 96(c), (d) & (e)(vi)-(ix) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

<sup>7</sup>Words in square brackets inserted in defn. of “party to the proceedings” for tax credits purposes only by reg. 4(b) of S.I. 1999/2570 as from 5.10.99.

<sup>8</sup>Words deleted from para. (b) of defn. of “party to the proceedings” and words substituted in defn. of “referral” by reg. 2(c-e) of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

<sup>9</sup>Words inserted in defn. of “party to the proceedings” by reg. 15(2)(a) of S.I. 2003/1886 as from 12.4.04.

<sup>10</sup>Defns. of “relevant other child” and “relevant person” omitted by reg. 6(2) of S.I. 2012/2785 as from 10.12.12.

<sup>11</sup>Defn. of “relevant other child” inserted by reg. 2(2) of S.I. 2011/1464 as from 7.7.11.

▶<sup>1</sup>“official error” means an error made by–

- (a) an officer of the Department for Work and Pensions ▶<sup>2</sup>◀ or the Board acting as such which no person outside the Department ▶<sup>2</sup>◀ or the Inland Revenue caused or to which no person outside the Department ▶<sup>2</sup>◀ or the Inland Revenue materially contributed;
- (b) a person employed by a designated authority acting on behalf of the authority, which no person outside that authority caused or to which no person outside that authority materially contributed,

but excludes any error of law which is shown to have been an error by virtue of a subsequent decision of ▶<sup>3</sup>the Upper Tribunal◀ or the court;◀

▶<sup>4</sup>◀

▶<sup>5</sup>“partner” means–

- (a) where a person is a member of a married couple or an unmarried couple, the other member of that couple; or
- (b) where a person is polygamously married to two or more members of his household, any such member;◀

“party to the proceedings” means the Secretary of State ▶<sup>6</sup>◀ [▶<sup>7</sup>or, as the case may be, the Board or an officer of the Board◀] and any other person–

- (a) who is one of the principal parties for the purposes of sections 13 and 14;
- (b) who has a right of appeal to ▶<sup>6</sup>the First-tier Tribunal◀ under section 11(2) of the 1997 Act(a), section 20 of the Child Support Act ▶<sup>8</sup>◀ ▶<sup>9</sup>, section 2B(6) of the Administration Act(b)◀ or section 12(2);

▶<sup>6</sup>◀

“referral” means a referral of an application for a ▶<sup>8</sup>variation◀ to ▶<sup>6</sup>the First-tier Tribunal◀ under section 28D(1)(b) of the Child Support Act(c).

▶<sup>10</sup>◀

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, definitions of “relevant other child” & “relevant person” are reproduced below.*

▶<sup>11</sup>“relevant other child” is to be interpreted by relevance to paragraph 10C(2) of Schedule 1 to the Child Support Act;◀

- 
- (a) Section 11(2) is amended by paragraph 150(2) of Schedule 7 to the Social Security Act 1998.
  - (b) 1992 c. 5; section 2B was inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c. 30) and amended by section 53 of, and paragraphs 8 and 9 of Schedule 7 to, and section 54 of, and Schedule 8 to, the Employment Act 2002 (c. 22).
  - (c) Section 28D was inserted by section 4 of the Child Support Act 1995 (c. 34).



**Reg. 1**

- ▶<sup>1</sup>except where otherwise provided “relevant person” means–
- (a) a person with care;
  - (b) a non-resident parent;
  - (c) a parent who is treated as non-resident parent under regulation 8 of the Maintenance Calculations and Special Cases Regulations;
  - (d) a child, where the application for a maintenance calculation is made by that child under section 7 of the Child Support Act,

<sup>1</sup>Words deleted from para. (b) of defn. of “party to the proceedings”, words substituted in defn. of “referral” & defn. “relevant person” inserted by reg. 2(c-e) of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

in respect of whom a maintenance calculation has been applied for ▶<sup>2</sup>◀ or is or has been in force;◀

<sup>2</sup>Words in defn. of “relevant person” omitted by reg. 4(2) of S.I. 2008/2543 as from 27.10.08.

▶<sup>3</sup>“relevant credit” means a credit of contributions or earnings resulting from a decision in accordance with regulations made under section 22(5) of the Contributions and Benefits Act;◀

<sup>3</sup>Defn. of “relevant credit” inserted by reg. 14(c) of S.I. 2000/1596 as from 19.6.00.

▶<sup>4</sup>“state pension credit” means the benefit payable under the State Pension Credit Act;

<sup>4</sup>Defns. “state pension credit”, “State Pension Credit Act” & “State Pension Credit Regulations” were inserted by reg. 16(c) of S.I. 2002/3019 as from 7.4.03.

“State Pension Credit Act” means the State Pension Credit Act 2002(a);

“State Pension Credit Regulations” means the State Pension Credit Regulations 2002(b);◀

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(a) 2002 c. 16.  
(b) S.I. 2002/1792.

**Regs. 1-2**

<sup>1</sup>Defn. of “tax credit” in square brackets inserted for tax credits purposes by reg. 4(c) of S.I. 1999/2570 as from 5.10.99.

<sup>2</sup>Defn. of “Transfer Act” inserted by reg. 2(2) of S.I. 1999/1670 as from 5.7.99.

<sup>3</sup>Defn. of “the Variations Regulations” omitted by reg. 6(2) of S.I. 2012/2785. See reg. 1 of S.I. 2012/2785 for relevant effective dates.

<sup>4</sup>Defn. of “the Variations Regulations” & words inserted in reg. 2 by regs. 2 & 3 of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

<sup>5</sup>Defn. of “the Welfare Reform Act” inserted by reg. 30(f) of S.I. 2008/1554 as from 27.10.08.

<sup>6</sup>Defns. of “work-focused interview” & “the Work-focused Interviews Regulations” inserted by Sch. 6, para. 2(C) of S.I. 2000/897 as from 3.4.00.

<sup>7</sup>Defn. of “work focused interview” substituted by reg. 24(2) of S.I. 2004/959 as from 26.4.04.

<sup>8</sup>Para. (3A) inserted by reg. 3(2)(b) of S.I. 1999/1662 (c. 47) as from 5.7.99.

<sup>9</sup>Words inserted in reg. 2 by regs. 2 & 3 of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

<sup>10</sup>Words omitted in reg. 2(a) & (b) by art. 97(a) & (b) of S.I. 2008/2683 as from 3.11.08.

<sup>11</sup>Words in square brackets inserted by regs. 2(a) & (b) for tax credit purposes only by regs. 5(a) & (b) of S.I. 1999/2570 as from 5.10.99.

<sup>12</sup>Words inserted in reg. 2(b) by reg. 2 of S.I. 2000/127 as from 14.2.00.

[▶<sup>1</sup>“tax credit” means working families’ tax credit or disabled person’s tax credit, construing those terms in accordance with section 1(1) of the Tax Credits Act 1999;◀]

▶<sup>2</sup>“the Transfer Act” means the Social Security Contributions (Transfer of Functions, etc) Act 1999;◀

▶<sup>3</sup>◀

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, the definition of “Variations Regulations” is reproduced below.*

▶<sup>4</sup>“the Variations Regulations” means the Child Support (Variations) Regulations 2000(a).◀

▶<sup>5</sup>“the Welfare Reform Act” means the Welfare Reform Act 2007;◀

*Defn. of “work focused interview” & the “Work-focused Interviews Regulations” are revoked by Sch. 1 of S.I. 2002/1703 as from 30.9.02 but remain reproduced here due to the transitional period detailed in reg. 16(2) of that S.I. at page 1.6227 of The Law Relating to Social Security.*

▶<sup>6</sup>“work-focused interview” has the meaning it has in regulation 3 of the Work-focused Interviews Regulations;

“the Work-focused Interviews Regulations” means the Social Security (Work-focused Interviews) Regulations 2000(b);◀

▶<sup>7</sup>“work focused interview” means an interview in which a person is required to take part in accordance with regulations made under section 2A or 2AA of the Administration Act;◀

▶<sup>8</sup>(3A) In these Regulations as they relate to any decision made under the Pension Schemes Act 1993 by virtue of section 170(2) of that Act, any reference to the Secretary of State is to be construed as if it were a reference to an officer of the Board.◀

(4) In these Regulations, unless the context otherwise requires, a reference—

- (a) to a numbered section is to the section of the Act bearing that number;
- (b) to a numbered Part is to the Part of these Regulations bearing that number;
- (c) to a numbered regulation or Schedule is to the regulation in, or Schedule to, these Regulations bearing that number;
- (d) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (e) in a paragraph to a lettered or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter or number.

**Service of notices or documents**

2. Where, by any provision of the Act ▶<sup>9</sup>, of the Child Support Act◀ or of these Regulations—

- (a) any notice or other document is required to be given or sent ▶<sup>10</sup>◀ to an officer authorised by the Secretary of State [▶<sup>11</sup>or to an officer of the Board◀], that notice or document shall be treated as having been so given or sent on the day that it is received ▶<sup>10</sup>◀ by an officer authorised by the Secretary of State [▶<sup>11</sup>or by an officer of the Board◀], as the case may be, and
- (b) any notice (including notification of a decision of the Secretary of State ▶<sup>12</sup>or of an officer of the Board◀) or other document is required to be given or sent to any person other than ▶<sup>10</sup>◀ [▶<sup>11</sup>an officer◀] authorised by the Secretary of State [▶<sup>11</sup>or an officer of the Board◀], as the case may be, that notice or document shall, if sent by post to that person’s last known address, be treated as having been given or sent on the day that it was posted.

(a) S.I. 2000/3185.

(b) S.I. 2000/897.

PART II  
REVISIONS, SUPERSESSIONS AND OTHER MATTERS  
SOCIAL SECURITY ►<sup>1</sup> AND CHILD SUPPORT ◀

CHAPTER 1

REVISIONS

<sup>1</sup>Words inserted in heading to Part II by reg. 4 of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

Revision of decisions

3.—(1) Subject to the following provisions of this regulation, any decision of the Secretary of State ►<sup>2</sup> or the Board or an officer of the Board ◀ under section 8 or 10 (“the original decision”) may be revised by him ►<sup>2</sup> or them ◀ if—

<sup>2</sup>Words in square brackets inserted in regs. 3(1) & (2) for tax credit purposes only by reg. 6(2) & (3) of S.I. 1999/2570 as from 5.10.99.

- <sup>3</sup>(a) he or they commence action leading to revision within one month of the date of notification of the original decision; or
- (b) an application for a revision is received by the Secretary of State or the Board or an officer of the Board at the appropriate office—
  - (i) subject to regulation 9A(3), within one month of the date of notification of the original decision;
  - (ii) where a written statement is requested under ►<sup>4</sup> paragraph (3)(b) of regulation 3ZA or ◀ paragraph (1)(b) of regulation 28 and is provided within the period specified in head (i), within 14 days of the expiry of that period;
  - (iii) where a written statement is requested under ►<sup>4</sup> paragraph (3)(b) of regulation 3ZA or ◀ paragraph (1)(b) of regulation 28 and is provided after the period specified in head (i), within 14 days of the date on which the statement is provided; or
  - (iv) within such longer period as may be allowed under regulation 4. ◀

<sup>3</sup>Sub-paras. (a) & (b) of reg. 3(1) substituted & (4A) inserted by reg. 3 of S.I. 2002/1379 as from 20.5.02.

<sup>4</sup>Words in reg. 3(1)(b)(ii) & (iii) inserted by reg. 4(2) of S.I. 2013/238 as from 28.10.13.

(2) Where the Secretary of State ►<sup>2</sup> or the board or an officer of the Board ◀ requires further evidence or information from the applicant in order to consider all the issues raised by an application under paragraph (1)(b) (“the original application”), he ►<sup>2</sup> or they ◀ shall notify the applicant that further evidence or information is required and the decision may be revised—

- (a) where the applicant provides further relevant evidence or information within one month of the date of notification or such longer period of time as the Secretary of State ►<sup>2</sup> or the Board or an officer of the Board ◀ may allow; or
- (b) where the applicant does not provide such evidence or information within the time allowed under sub-paragraph (a), on the basis of the original application.

(3) In the case of a payment out of the social fund in respect of maternity or funeral expenses, a decision under section 8 may be revised where the application is made—

- (a) within one month of the date of notification of the decision, or if later
- (b) within the time prescribed for claiming such a payment under regulation 19 of, and Schedule 4 to, the Claims and Payments Regulations(a), or
- (c) within such longer period of time as may be allowed under regulation 4.

(4) In the case of a decision made under the Pension Schemes Act 1993(b) by virtue of section 170(2) of that Act, the decision may be revised at any time by ►<sup>5</sup> an officer of the Board ◀ where it contains an error.

<sup>5</sup>Words substituted in reg. 3(4) by reg. 3(3)(a) of S.I. 1999/1662 (c. 47) as from 5.7.99.

►<sup>3</sup>(4A) Where there is an appeal against an original decision (within the meaning of paragraph (1)) within the time prescribed ►<sup>6</sup> by the Tribunal Procedure Rules ◀ but the appeal has not been determined, the original decision may be revised at any time. ◀

<sup>6</sup>Words substituted in reg. 3(4A) by para. 98(a) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

(a) See in particular paragraphs 8 and 9 of Schedule 4 to the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968).

(b) 1993 c. 48; section 170 was substituted by paragraph 131 of Schedule 7 to the Social Security Act 1998.

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<sup>1</sup>Words in square brackets are substituted in reg. 5 for “Secretary of State” and in reg. 5(c) for “at any time by the Secretary of State”, by regs. 6(4)(a) & (c) of S.I. 1999/2570, for tax credit purposes only as from 5.10.09..

<sup>2</sup>Words omitted in para. (5)(b), inserted in (5)(c) & sub-para. (d) added by reg. 3(2)-(4) of S.I. 2007/2470 as from 27.9.07.

<sup>3</sup>Words in para. (c) inserted into reg. 3(5) by reg. 2(b) of S.I. 1999/1623 as from 5.7.99

<sup>4</sup>Words inserted in reg. 3(5)(c) & (d) by reg. 31(2)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

<sup>5</sup>Para. (5A) inserted in reg. 3 by reg. 3(c) of S.I. 2002/1379 as from 20.5.02.

<sup>6</sup>Words in reg. 3(5A)(b) substituted by art. 98(b) of S.I. 2008/2683 as from 3.11.08.

(5) A decision of the Secretary of State [▶<sup>1</sup>Board or an officer of the Board◀] under section 8 or 10–

- (a) which arose from an official error; or
- (b) ▶<sup>2</sup>except in a case to which sub-paragraph (c) or (d) applies,◀ where the decision was made in ignorance of, or was based upon a mistake as to, some material fact and as a result of that ignorance of or mistake as to that fact, the decision was more advantageous to the claimant than it would otherwise have been but for that ignorance or mistake,

*For tax credit purposes only, sub-para. (b) of reg. 3(5) is substituted by reg. 6(4)(b) of S.I. 1999/2570 as from 5.10.99. The version of sub-para. (b) for tax credit purposes in force from 5.10.99 is reproduced below.*

(b) which was made in ignorance of, or was based on a mistake as to, some material fact,

- ▶<sup>3</sup>(c) ▶<sup>2</sup>subject to sub-paragraph (d),◀ where the decision is a disability benefit decision, or is an incapacity benefit decision where there has been an incapacity determination ▶<sup>4</sup>or is an employment and support allowance decision where there has been a limited capability for work determination◀ (whether before or after the decision), which was made in ignorance of, or was based upon a mistake as to, some material fact in relation to a disability determination embodied in or necessary to the disability benefit decision ▶<sup>4</sup>, the incapacity determination or the limited capability for work determination◀, and
  - (i) as a result of that ignorance of or mistake as to that fact the decision was more advantageous to the claimant than it would otherwise have been for that ignorance or mistake and,
  - (ii) the Secretary of State is satisfied that at the time the decision was made the claimant or payee knew or could reasonably have been expected to know of the fact in question and that it was relevant to the decision,◀

may be revised at any time by the Secretary of State [▶<sup>1</sup>by the Board or an officer of the Board at any time not later than end of the period of six years immediately following the date of the decision or, where ignorance of the material fact referred to in sub-paragraph (b) was caused by the fraudulent or negligent conduct of the claimant, not later than the end of the period of twenty years immediately following the date of the decision◀]

- ▶<sup>2</sup>(d) where the decision ▶<sup>4</sup>is an employment and support allowance decision,◀ is a disability benefit decision, or is an incapacity benefit decision, which was made in ignorance of, or was based upon a mistake as to, some material fact not in relation to the ▶<sup>4</sup>limited capability for work determination,◀ incapacity or disability determination embodied in or necessary to ▶<sup>4</sup>the employment and support allowance decision,◀ the incapacity benefit decision or disability benefit decision, and as a result of that ignorance of, or mistake as to that fact, the decision was more advantageous to the claimant than it would otherwise have been but for the ignorance or mistake.◀

▶<sup>5</sup>(5A) Where–

- (a) the Secretary of State or the Board or an officer of the Board, as the case may be, makes a decision under section 8 or 10, or that decision is revised under section 9, in respect of a claim or award (“decision A”) and the claimant appeals against decision A;
- (b) decision A is superseded or the claimant makes a further claim which is decided (“decision B”) after the claimant made the appeal but before the appeal results in a decision by ▶<sup>6</sup>the First-tier Tribunal◀ (“decision C”); and
- (c) the Secretary of State or the Board or an officer of the Board, as the case may be, would have made decision B differently if he or they had been aware of decision C at the time he or they made decision B,

decision B may be revised at any time.◀

►<sup>1</sup>(5B) A decision by the Secretary of State under section 8 or 10 awarding incapacity benefit may be revised at any time if–

- (a) it incorporates a determination that the condition in regulation 28(2)(b) of the Social Security (Incapacity for Work) (General) Regulations 1995(a) (conditions for treating a person as incapable of work until the personal capability assessment is carried out) is satisfied;
- (b) the condition referred to in sub-paragraph (a) was not satisfied at the time when the further claim was first determined; and
- (c) there is a period before the award which falls to be decided.◀

<sup>1</sup>Reg. 3(5B) inserted by reg. 3(5) of S.I. 2007/2470 as from 27.9.07.

►<sup>2</sup>(5C) A decision of the Secretary of State under section 10 made in consequence of a failure determination may be revised at any time if it contained an error to which the claimant did not materially contribute.

<sup>2</sup>Para. (5C) inserted in reg. 3 by reg. 31(4) & (5) of S.I. 2008/1554 as from 27.10.08.

(5D) ►<sup>3</sup>A decision by the Secretary of State under section 8 or 10 awarding an employment and support allowance may be revised at any time if–

- (a) it incorporates a determination that the conditions in regulation 30 of the Employment and Support Allowance Regulations are satisfied;
- (b) the condition referred to in sub-paragraph (a) was not satisfied at the time when the claim was made; and
- (c) there is a period before the award which falls to be decided(b).◀◀

<sup>3</sup>Paras. 5D, 5G & 5H inserted in reg. 3 by reg. 12 of S.I. 2011/2425 as from 10.10.11.

►<sup>4</sup>(5E) A decision under section 8 or 10 awarding an employment and support allowance may be revised if–

- (a) the decision of the Secretary of State awarding an employment and support allowance was made on the basis that the claimant had made and was pursuing an appeal against a decision of the Secretary of State that the claimant did not have limited capability for work (“the original decision”); and
- (b) the appeal to the First-tier Tribunal in relation to the original decision is successful.

<sup>4</sup>Paras. (5E) & (5F) inserted in reg. 3 by reg. 7(2) of S.I. 2010/840 as from 28.6.10.

(5F) A decision under section 8 or 10 awarding an employment and support allowance may be revised if–

- (a) the person’s current period of limited capability for work is treated as a continuation of another such period under regulation 145(1) ►<sup>5</sup>◀ of the Employment and Support Allowance Regulations; and
- (b) regulation 7(1)(b) of those Regulations applies.◀

<sup>5</sup>Words omitted in reg. 3(5F)(a) by reg. 2 of S.I. 2012/919 as from 26.3.12.

►<sup>3</sup>(5G) Where–

- (a) a person’s entitlement to an employment and support allowance is terminated because of a decision which embodies a determination that the person does not have limited capability for work;
- (b) the person appeals that decision to the First-tier Tribunal;
- (c) before or after that decision is appealed by the person, that person claims and there is a decision to award–
  - (i) income support, or
  - (ii) jobseeker’s allowance; and
- (d) the decision referred to in sub-paragraph (a) is successfully appealed,

the decision to award income support or jobseeker’s allowance may be revised.

(5H) Where–

- (a) a conversion decision within the meaning of regulation 5(2)(b) of the Employment and Support Allowance (Transitional Provisions, Housing Benefit and Council Tax Benefit) (Existing Awards) (No. 2) Regulations 2010(c) (deciding whether an existing award qualifies for conversion) is made in respect of a person;

(a) S.I. 1995/311. Regulation 28(2)(b) was amended by S.I. 1995/987 and S.I. 1996/3207.

(b) Reg. 3(5D) inserted originally by reg. 31(4) of S.I. 2008/1554 and revoked by regulation 3(2)(a) of S.I. 2009/1490.

(c) S.I. 2010/1907, as amended by S.I. 2010/2430.



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- (b) the person appeals that decision to the First-tier Tribunal;
  - (c) before or after that decision is appealed by the person, that person claims and there is a decision to award—
    - (i) income support, or
    - (ii) jobseeker's allowance; and
  - (d) the decision referred to in sub-paragraph (a) is successfully appealed,
- the decision to award income support or jobseeker's allowance may be revised.◀

<sup>1</sup>Para. 5I inserted in reg. 3 by reg. 5 of S.I. 2012/913 as from 1.5.12.

- ▶<sup>1</sup>(5I) Where—
  - (a) a decision to terminate a person's entitlement to a contributory employment and support allowance is made because of section 1A of the Welfare Reform Act (duration of contributory allowance); and
  - (b) it is subsequently determined, in relation to the period of entitlement before that decision, that the person had or is treated as having had limited capability for work-related activity,

the decision to terminate that entitlement may be revised.◀

<sup>2</sup>Reg. 3(5J) inserted by reg. 7 of S.I. 2015/339 as from 30.3.15.

- ▶<sup>2</sup>(5J) A decision by the Secretary of State under section 8 awarding an employment and support allowance may be revised at any time where—

- (a) it is made immediately following the last day of a period for which the claimant was treated as capable of work or as not having limited capability for work under regulation 55ZA of the Jobseeker's Allowance Regulations or regulation 46A of the Jobseeker's Allowance Regulations 2013 (extended period of sickness) and that period lasted 13 weeks; and
- (b) it is not a decision which embodies a determination that the claimant is treated as having limited capability for work under regulation 30 of the Employment and Support Allowance Regulations (conditions for treating a claimant as having limited capability for work until a determination about limited capability for work has been made).◀

(6) A decision of the Secretary of State under section 8 or 10 that a jobseeker's allowance is not payable to a claimant for any period in accordance with ▶<sup>3</sup>regulation 27A of the Jobseeker's Allowance Regulations or ◀section 19▶<sup>4</sup>or 20A◀ of the Jobseekers Act▶<sup>5</sup>, or with regulations made under section 17A of that Act◀ may be revised at any time by the Secretary of State.

▶<sup>6</sup>(6A) A relevant decision within the meaning of section 2B(2) ▶<sup>7</sup>or 2A◀ of the Administration Act(a) may be revised at any time if it contains an error.◀

- ▶<sup>8</sup>(7) Where—
  - (a) the Secretary of State or an officer of the Board makes a decision under section 8 or 10 awarding a relevant benefit to a claimant (“the original award”); and
  - (b) an award of another relevant benefit or of an increase in the rate of another relevant benefit is made to the claimant or a member of his family for a period which includes the date on which the original award took effect,

the Secretary of State or an officer of the Board, as the case may require, may revise the original award.◀

▶<sup>9</sup>(7ZA) Where—

- (a) the Secretary of State makes a decision under section 8 or 10 awarding income support, ▶<sup>10</sup>income-based Jobseeker's Allowance,◀ ▶<sup>11</sup>state pension credit or an income-related employment and support allowance◀ to a claimant (“the original award”);
- (b) the claimant has a non-dependant within the meaning of regulation 3 of the Income Support Regulations▶<sup>10</sup>, regulation 2 of the Jobseeker's Allowance Regulations◀▶<sup>11</sup>or regulation 71 of the Employment and Support Allowance Regulations◀ or a person residing with him within the meaning of paragraph 1(1)(a)(ii), (b)(ii) or (c)(iii) of Schedule 1 to the State Pension Credit Regulations (“the non-dependant”);

(a) Section 2B was inserted by section 57 of the Welfare Reform Act 1999 (c. 30).

<sup>3</sup>Words inserted in reg. 3(6) by reg. 3(2) of S.I. 2010/509 as from 6.4.10.

<sup>4</sup>Words inserted in reg. 3(6) by reg. 5(a) of S.I. 2000/1982 as from 19.3.01.

<sup>5</sup>Words inserted in reg. 3(6) by reg. 18(a) of S.I. 2011/688 as from 25.4.11.

<sup>6</sup>Para. (6A) inserted in reg. 3 by Sch. 6, para. 3(a) of S.I. 2000/897 as from 3.4.00.

<sup>7</sup>Words in reg. 3(6A) inserted by reg. 15(3) of S.I. 2003/1886 as from 12.4.04.

<sup>8</sup>Para. (7) substituted in reg. 3 by reg. 4(2) of S.I. 2002/428 as from 2.4.02.

<sup>9</sup>Para (7ZA) inserted in reg. 3 by reg. 2(a) of S.I. 2005/337 as from 18.3.05.

<sup>10</sup>Words inserted in reg. 3(7ZA)(a) & (b) by reg. 3(2)(b) & (c) of S.I. 2009/1490 as from 13.7.09.

<sup>11</sup>Words inserted in reg. 3(7ZA)(a) & (b) by reg. 31(5)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

- (c) but for the non-dependant—
- (i) a severe disability premium would be applicable to the claimant under regulation 17(1)(d) of the Income Support Regulations<sup>1</sup>, regulation 83(e) or 86A(c) of the Jobseeker's Allowance Regulations<sup>2</sup> or regulation 67 of the Employment and Support Allowance Regulations<sup>3</sup>; or
  - (ii) an additional amount would be applicable to the claimant as a severe disabled person under regulation 6(4) of the State Pension Credit Regulations; and
- (d) after the original award the non-dependant is awarded benefit which—
- (i) is for a period which includes the date on which the original award took effect; and
  - (ii) is such that a severe disability premium becomes applicable to the claimant under paragraph 13(3)(a) of Schedule 2 to the Income Support Regulations<sup>3</sup>, paragraph 15(4)(a) or 20I(3)(a) of Schedule 1 to the Jobseeker's Allowance Regulations<sup>4</sup>, paragraph 6(4)(a) of Schedule 4 to the Employment and Support Allowance Regulations<sup>5</sup> or an additional amount for severe disability becomes applicable to him under paragraph 2(2)(a) of Schedule 1 to the State Pension Credit Regulations,

<sup>1</sup>Words inserted in reg. 3(7ZA)(c)(i) by reg. 3(2)(b) of S.I. 2009/1490 as from 13.7.09.

<sup>2</sup>Words inserted in reg. 3(7ZA)(c)(i) by reg. 31(5)(c) of S.I. 2008/1554 as from 27.10.08.

<sup>3</sup>Words inserted in para. 3(7ZA)(d)(ii) & 3(7CC) inserted by reg. 3(2)(b) & (c) of S.I. 2009/1490 as from 13.7.09.

<sup>4</sup>Words inserted in reg. 3(7ZA)(d)(ii) by reg. 31(5)(d) of S.I. 2008/1554 as from 27.10.08.

<sup>5</sup>Para. (7A) inserted in reg. 3 by reg. 3(d) of S.I. 2002/1379 as from 20.5.02.

the Secretary of State may revise the original award<sup>6</sup>

►<sup>5</sup>(7A) Where a decision as to a claimant's entitlement to a disablement pension under section 103 of the Contributions and Benefits Act is revised by the Secretary of State, or changed on appeal, a decision of the Secretary of State as to the claimant's entitlement to reduced earnings allowance under paragraph 11 or 12 of Schedule 7 to that Act may be revised at any time provided that the revised decision is more advantageous to the claimant than the original decision.<sup>6</sup>

►<sup>6</sup>(7B) A decision under regulation 22A(a) of the Income Support Regulations (reduced in applicable amount where the claimant is appealing against a decision which embodies a determination that he is not incapable of work) may be revised if the appeal is successful ►<sup>7</sup>or lapses<sup>7</sup>.

<sup>6</sup>Para (7B) & (7C) added in reg. 3 by reg. 2(2)(b) of S.I. 2005/337 as from 18.3.05.

<sup>7</sup>Words inserted & substituted in para. (7B) & (7C) by reg. 5(2)(a) & (b) of S.I. 2006/832 as from 10.4.06.

(7C) Where a person's entitlement to income support is terminated because of a determination that he is not incapable of work ►<sup>7</sup>the decision which embodies that determination is revised or<sup>8</sup> and he subsequently appeals the decision ►<sup>7</sup>which embodies<sup>8</sup> that determination and is entitled to income support under regulation 22A of the Income Support Regulations, the decision to terminate entitlement may be revised.<sup>8</sup>

►<sup>3</sup>(7CC) Where—

- (a) a person's entitlement to income support is terminated because of a determination that the person is not incapable of work;
- (b) the person subsequently claims and is awarded jobseeker's allowance; and
- (c) the decision which embodies the determination that the person is not incapable of work is revised or successfully appealed,

the Secretary of State may revise the decisions to terminate income support entitlement and to award jobseeker's allowance.<sup>9</sup>

►<sup>8</sup>(7CD) A decision of the Secretary of State under section 10 of the Act made in consequence of a determination under regulation 6(2) of the Income Support Work-Related Activity Regulations that a claimant has failed to satisfy a requirement of regulation 2 of those Regulations (requirement to undertake work-related activity) may be revised at any time if it contained an error to which the claimant did not materially contribute.<sup>9</sup>

<sup>8</sup>Reg. 3(7CD) inserted by reg. 12(3) of S.I. 2014/1097 as from 28.4.14.

►<sup>9</sup>(7D) Where—

- (a) a person elects for an increase of—

<sup>9</sup>Para. (7D) & (7E) added to reg. 3 by reg. 9(3) of S.I. 2005/2677 as from 6.4.06.

(a) Regulation 22A was inserted by S.I. 1996/206 and was amended by S.I. 1999/2422 and 3109, 2000/590 and 2001/3767.

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- (i) a Category A or Category B retirement pension in accordance with paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act<sup>(a)</sup> (pension increase or lump sum where entitlement to retirement pension is deferred);
- (ii) a shared additional pension in accordance with paragraph 1 of Schedule 5A to that Act<sup>(b)</sup> (pension increase or lump sum where entitlement to shared additional pension is deferred); or, as the case may be,
- (iii) graduated retirement benefit in accordance with paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations (further provisions replacing section 36(4) of the National Insurance Act 1965: increases of graduated retirement benefit and lump sums);
- (b) the Secretary of State decides that the person or his partner is entitled to state pension credit and takes into account the increase of pension or benefit in making or superseding that decision; and
- (c) the person's election for an increase is subsequently changed in favour of a lump sum in accordance with regulation 5 of the Deferral of Retirement Pensions etc. Regulations or, as the case may be, paragraph 20D of Schedule 1 to the Graduated Retirement Benefit Regulations<sup>(c)</sup>,

the Secretary of State may revise the state pension credit decision.

(7E) Where—

- (a) a person is awarded a Category A or Category B retirement pension, shared additional pension or, as the case may be, graduated retirement benefit;
- (b) an election is made, or treated as made, in respect of the award in accordance with paragraph A1 or 3C of Schedule 5 or paragraph 1 of Schedule 5A to the Contributions and Benefits Act or, as the case may be, in accordance with paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations; and
- (c) the election is subsequently changed in accordance with regulation 5 of the Deferral of Retirement Pensions etc. Regulations or, as the case may be, paragraph 20D of Schedule 1 to the Graduated Retirement Benefit Regulations,

the Secretary of State may revise the award. ◀

<sup>1</sup>Paras. (7EA) & (7EB) inserted in reg. 3 by reg. 4 of S.I. 2012/824 as from 17.4.12.

▶<sup>1</sup>(7EA) The Secretary of State may revise a decision made under regulation 18(1) that a person ceases to be entitled to a benefit specified in paragraph (7EB).

(7EB) Those benefits are—

- (a) a Category A or Category B retirement pension;
- (b) a shared additional pension;
- (c) graduated retirement benefit. ◀

<sup>2</sup>Para. (7F) inserted in reg. 3 by reg. 5(2)(c) of S.I. 2006/832 as from 10.4.06.

▶<sup>2</sup>(7F) A decision under regulation 17(1)(d) of the Income Support Regulations that a person is no longer entitled to a disability premium because of a determination that he is not incapable of work may be revised where the decision which embodies that determination is revised or his appeal against the decision is successful. ◀

(8) A decision of the Secretary of State [▶<sup>3</sup>or the Board or an officer of the Board◀] which is specified in Schedule 2 to the Act or is prescribed in regulation 27 (decisions against which no appeal lies) may be revised at any time.

(8A) ▶<sup>4</sup>◀

▶<sup>5</sup>(8B) Where—

- (a) a restriction is imposed on a person under sections 6B, 7, 8 or 9 of the Social Security Fraud Act 2001 (loss of benefit provisions) as result of the person—
  - (i) being conviction of an offence by a court; or
  - (ii) agreeing to pay a penalty as an alternative to prosecution under section 115A of the Administration Act or section 109A of the Social Security Administration (Northern Ireland) Act 1992, and

<sup>3</sup>Words in square brackets inserted in reg. 3(8) and 3(9) for tax credits purposes only by reg. 6(2) of S.I. 1999/2570 as from 5.10.99.

<sup>4</sup>Para. (8A) omitted by reg. 4(3) of S.I. 2010/424. See reg. 1(2) *ibid* for relevant commencement date.

<sup>5</sup>Para. (8B) substituted by reg. 3(2) of S.I. 2010/1160 as from 1.4.10.

(a) Paragraphs A1 & 3C are inserted respectively by paragraphs 4 & 9 of Schedule 11 to the Pensions Act 2004 (c. 35).

(b) Schedule 5A is inserted by paragraph 15 of Schedule 11 to the Pensions Act 2004.

(c) Paragraph 20D is inserted by S.I. 2005/2677.



- (b) that conviction is quashed or set aside by that or any other court, or the person withdraws his agreement to pay a penalty.

a decision of the Secretary of State made under section 8(1)(a) or made under section 10 in accordance with regulation 6(2)(j) or (k) may be revised at any time. ◀

▶<sup>1</sup>(8C) A decision made under section 8 or 10 (“the original decision”) may be revised at any time—

<sup>1</sup>Reg. 3(8C) inserted by reg. 3(2) of S.I. 2008/2667 as from 30.10.08.

- (a) where, on or after the date of the original decision—
- (i) a late paid contribution is treated as paid under regulation 5(a) of the Social Security (Crediting and Treatment of Contributions and National Insurance Numbers) Regulations 2001(b) (treatment of late paid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made;
  - (ii) a direction is given under regulation 6(c) of those Regulations (treatment of contributions paid late through ignorance or error) that a late contribution shall be treated as paid on a date which falls on or before the date on which the original decision was made; or
  - (iii) an unpaid contribution is treated as paid under regulation 60(d) of the Social Security (Contributions) Regulations 2001(e) (treatment of unpaid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made; and
- (b) where any of paragraphs (i), (ii) or (iii) apply, either an award of benefit would have been made or the amount of benefit awarded would have been different. ◀

▶<sup>2</sup>(8D) A decision made under section 8 or 10 may be revised at any time where, by virtue of regulation 6C (treatment of Class 3 contributions paid under section 13A of the Act) of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001, a contribution is treated as paid on a date which falls on or before the date on which the decision was made. ◀

<sup>2</sup>Reg. 3(8D) inserted by reg. 2(2) of S.I. 2009/659 as from 6.2.09.

▶<sup>3</sup>(9) Paragraph (1) shall not apply in respect of—

- (a) a relevant change of circumstances which occurred since the decision ▶<sup>4</sup>had effect ◀ ▶<sup>5</sup>or, in the case of an advance award under regulation 13(f), 13A or 13C(g) of the claims and payments regulations, since the decision was made, ◀ or where the Secretary of State [▶<sup>6</sup>or the Board or an officer of the Board ◀] has evidence or information which indicates that a relevant change of circumstances will occur; ▶<sup>7</sup> ◀
- (b) a decision which relates to an attendance allowance or a disability living allowance where the person is terminally ill, within the meaning of section 66(2)(a) of the Contributions and Benefit Act, unless an application for revision which contains an express statement that the person is terminally ill is made either by—
  - (i) the person himself; or
  - (ii) any other person purporting to act on his behalf whether or not that other person is acting with his knowledge or authority, ▶<sup>7</sup> nor
- (c) a decision which relates to an employment and support allowance where the claimant is terminally ill, within the meaning of regulation 2(1) of the Employment and Support Allowance Regulations unless the claimant makes an application which contains an express statement that he is terminally ill and where such an application is made, the decision may be revised. ◀

<sup>3</sup>Para. 9 of reg. 3 substituted by reg. 6(b) of S.I. 1999/2677 as from 18.10.99.

<sup>4</sup>Words in reg. 3(9)(a) substituted by reg. 3(2) of S.I. 2003/1050 as from 5.5.03.

<sup>5</sup>Words in (9)(a) added in reg. 3 by reg. 2(2)(a) of S.I. 2005/337 as from 18.3.05.

<sup>6</sup>Words in square brackets inserted in regs. 3(9) for tax credits purposes only by reg. 6(2) & (5) of S.I. 1999/2570 as from 5.10.99.

<sup>7</sup>Word omitted in reg. 3(9)(a) & sub-para. (c) added by reg. 31(6)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

(a) Regulation 5 was amended by S.I. 2002/2366 and is amended by 2008/1554 with effect from 27 October 2008.

(b) S.I. 2001/769.

(c) Regulation 6 was amended by S.I. 2002/2366.

(d) Regulation 60 was amended by S.I. 2002/2366 and 2007/1056.

(e) S.I. 2001/1004.

(f) Regulation 13 was amended by S.I. 1991/2284 and 2741, 1992/247, 1994/2319, 1999/2422, 2572 and 3178 and 2002/3019.

(g) Regulations 13A and 13C were inserted by S.I. 1991/2741 and amended by S.I. 1999/2860 and 3178.

## Regs. 3-3ZA

but where such an application is received a decision may be so revised notwithstanding that no claim under section 66(1) or, as the case may be, 72(5) or 73(12) of that Act has been made.◀

<sup>1</sup>Words in square brackets inserted in reg. (10) for tax credits purposes only by reg. 6(2) & (5) of S.I. 1999/2570 as from 5.10.99.

<sup>2</sup>Words “Department for Work and Pensions” substituted by reg. 3(a) of S.I. 2002/1379 as from 20.5.02.

<sup>3</sup>Sub-para. 11(c) & (d) inserted by reg. 3(3)(b) of S.I. 1999/1662 (c. 47) as from 5.7.99.

<sup>4</sup>Sub-para. (e) in square brackets added to reg. 3(11) for tax credits purposes only by reg. 6(6) of S.I. 1999/2570 as from 5.10.99.

<sup>5</sup>Words “or” and reg. 3(11)(f) is revoked by Sch. 1 of S.I. 2002/1703 as from 30.9.02.

<sup>6</sup>Sub-para. (f) of reg. 3(11) substituted by para. 6(b) of Sch. 2 to S.I. 2002/1703 as from 30.9.02.

<sup>7</sup>Sub-para. (f) inserted in reg. 3(11) by Sch. 6, para. 3(b) of S.I. 2000/897 as from 3.4.00.

<sup>8</sup>Reg. 3ZA inserted by reg. 4(3) of S.I. 2013/2380 as from 28.10.13.

(10) The Secretary of State [▶<sup>1</sup>or the Board◀] may treat an application for a supersession as an application for a revision.

(11) In this regulation and regulation 7, “appropriate office” means

- (a) the office of the ▶<sup>2</sup>Department for Work and Pensions◀ the address of which is indicated on the notification of the original decision; or
- (b) in the case of a person who has claimed jobseeker’s allowance, the office specified by the Secretary of State in accordance with regulation 23 of the Jobseeker’s Allowance Regulations▶<sup>3</sup>; or
- (c) in the case of a contributions decision which falls within Part II of Schedule 3 to the Act(a), any National Insurance Contributions Office of the Board or any office of the ▶<sup>2</sup>Department for Work and Pensions◀; or
- (d) in the case of a decision made under the Pensions Schemes Act 1993 by virtue of section 170(2) of that Act(b), any National Insurance Contributions Office of the Board◀[▶<sup>4</sup>; or
- (e) on the case of a person who has claimed working families’ tax credit or disabled person’s tax credit, a Tax Credits Office, the address of which is indicated on the notification of the original decision◀[▶<sup>5</sup>; or
- ▶<sup>6</sup>(f) in the case of a person who is, or would be, required to take part in a work-focused interview, an office of the Department for Work and Pensions which designated by the Secretary of State as a Jobcentre Plus Office or an Office of a designated authority which displays the one logo◀◀

*Words “or” and reg. 3(11)(f) is revoked by Sch. 1 of S.I. 2002/1703 as from 30.9.02 but remains reproduced here due to the transitional provisions detailed in reg. 16(2) of that S.I. at page 1.6227 in The Law Relating to Social Security.*

▶<sup>7</sup>(f) in the case of a relevant person within the meaning of regulation 2(2) of the Work-focused Interviews Regulations, an office of any designated authority which displays the one logo.◀

▶<sup>8</sup>**Consideration of revision before appeal**

**3ZA.**—(1) This regulation applies in a case where—

- (a) the Secretary of State gives a person written notice of a decision under section 8 or 10 of the Act (whether as originally made or as revised under section 9 of that Act); and
- (b) that notice includes a statement to the effect that there is a right of appeal in relation to the decision only if the Secretary of State has considered an application for a revision of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under section 12(2) of the Act in relation to the decision only if the Secretary of State has considered on an application whether to revise the decision under section 9 of the Act.

(3) The notice referred to in paragraph (1) must inform the person—

- (a) of the time limit specified in regulation 3(1) or (3) for making an application for a revision; and
- (b) that, where the notice does not include a statement of the reasons for the decision (“written reasons”), he may, within one month of the date of notification of the decision, request that the Secretary of State provide him with written reasons.

(a) Schedule 3 is amended by paragraph 36 of Schedule 7, to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) (“the Act”).

(b) 1993 c. 48; section 170 has been amended by paragraph 42 of Schedule 3, paragraph 70 of Schedule 5, and Part III of Schedule 7 to the Pensions Act 1995 (c. 26). A new section 170 is substituted by paragraph 131 of Schedule 7 to the Social Security Act 1998 (c. 14) and amended by section 16(2) of the Act.

(4) Where written reasons are requested under paragraph (3)(b), the Secretary of State must provide them within 14 days of receipt of the request or as soon as practicable afterwards.

(5) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a revision under section 9 of the Act. ◀

**3A. ▶<sup>1</sup>◀**

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, Reg. 3A is reproduced below.*

▶<sup>2</sup>Revision of child support decisions

3A.—(1) Subject to paragraph (2), any decision as defined in paragraph (3) may be revised under section 16 of the Child Support Act by the ▶<sup>3</sup>Commission◀—

- (a) if ▶<sup>3</sup>it◀ receives an application for the revision of a decision either—
  - (i) under section 16; or
  - (ii) by way of an application under section 28G,

of the Child Support Act, within one month of the date of notification of the decision or within such longer time as may be allowed under regulation 4;

*\*See reg. 6(1)(2) of S.I. 2015/338 for details of modifications to this reg. in certain situations when the modified reg. 3A(1)(a) applies.*

- ▶<sup>4</sup>(a) if the Secretary of State receives an application for the revision of a decision under either section 16 or section 28G of the Child Support Act—
  - (i) within one month of the date of notification of the decision;
  - (ii) within one month of the date on which notice of the correction is given under regulation 9B(3) (correction of accidental errors in child support decisions); or
  - (iii) within such longer time as may be allowed under regulation 4; ◀
- (a) if—
  - (i) ▶<sup>2</sup>it◀ notifies the person who applied for a decision to be revised within the period specified in subparagraph (a), that the application is unsuccessful because the ▶<sup>3</sup>Commission◀ is not in possession of all of the information or evidence needed to make a decision; and
  - (ii) that person reapplies for the decision to be revised within one month of the notification described in head (i) above, or such longer period as the ▶<sup>3</sup>Commission◀ is satisfied is reasonable in the circumstances of the case, and provides in that application sufficient information or evidence to enable a decision to be made;
- (c) if ▶<sup>5</sup>it◀ is satisfied that the decision was erroneous due to a misrepresentation of, or failure to disclose, a material fact and that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would have been but for that error;
- ▶<sup>6</sup>(cc) if an appeal is made under section 20 of the Child Support Act against a decision within the time prescribed ▶<sup>7</sup>by Tribunal Procedure Rules◀ but the appeal has not been determined; ◀
- (d) if ▶<sup>5</sup>it◀ commences action leading to the revision of the decision within one month of the date of notification of the decision; ◀
- (e) if the decision arose from an official error▶<sup>6</sup>; or
- (f) if the grounds for revision are that a person with respect to whom a maintenance calculation was made was not, at the time the calculation was made, a parent of a child to whom the calculation relates. ◀

<sup>1</sup>Reg. 3A omitted by reg. 6(3) of S.I. 2012/2785 as from 10.12.12.

<sup>2</sup>Reg. 3A inserted by reg. 5 of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.  
<sup>3</sup>Words “Commission” and “it” substituted by reg. 4(2)(a) and (b) of S.I. 2009/396 as from 6.4.09.

<sup>4</sup>Reg. 3A(1)(a) modified & substituted in certain circumstances by reg. 6(2) of S.I. 2015/338 as from 23.3.15. (See reg. 6(1) for when to apply).

<sup>5</sup>Word “it” substituted by reg. 4(2)(b) of S.I. 2009/396 as from 6.4.09.

<sup>6</sup>Regs. 3A(1)(cc) & (f) inserted by reg. 2(2)(a) of S.I. 2002/1204 as from the date prescribed in reg. 1(3)(b) of that S.I.  
<sup>7</sup>Words substituted in reg. 3A(1)(cc), by art. 6(1), Sch. 1, para. 99(a) of S.I. 2008/2683 as from 3.11.08.

(2) Paragraph (1)(a) to (d) shall not apply in respect of a change of circumstances which—

- (a) occurred since the date on which the decision had effect; or
- (b) according to information or evidence which the Secretary of State has, is expected to occur.

<sup>1</sup>Reg. 3A(3) substituted by regs. 2(2)(b) of S.I. 2002/1204 as from the date prescribed in reg. 1(3)(b) of that S.I.

<sup>2</sup>Words in sub-para. (3) substituted by reg. 4(3)(a) of S.I. 2008/2543 as from 27.10.08.

<sup>3</sup>Words substituted in reg. (3), (5A) by art. 99(b) of S.I. 2008/2683 as from 3.11.08.

<sup>4</sup>Reg. (5A) inserted by reg. 2(2)(c) of S.I. 2002/1204 as from the date prescribed in reg. 1(3)(b) of that S.I.

<sup>5</sup>Words substituted in reg. (5A) by art. 99(b) of S.I. 2008/2683 as from 3.11.08.

<sup>6</sup>Regs. 3A(6) & (7) deleted by regs. 4(2)(c) of S.I. 2009/396 as from 6.4.09.

<sup>7</sup>Regs. 3A(8) & (9) inserted by reg. 3 of S.I. 2008/2544 as from 27.10.08.

<sup>8</sup>Reg. 3B inserted by reg. 4(4) of S.I. 2013/2380 as from 28.10.13.

►<sup>1</sup>(3) In paragraphs (1), (2) and (5A) and in regulation 4(3) “decision” means a decision of the Secretary of State under sections ►<sup>2</sup>11 or 12◀ of the Child Support Act, or a determination of ►<sup>3</sup>the First-tier Tribunal◀ on a referral under section 28D(1)(b) of that Act, or any supersession of a decision under section 17 of that Act, whether as originally made or as revised under section 16 of that Act.◀

(4) A decision made under section 12(2) of the Child Support Act may be revised at any time before it is replaced by a decision under section 11 of that Act.

(5) Where the Secretary of State revises a decision made under section 12(1) of the Child Support Act in accordance with section 16(1B) of that Act, that decision may be revised under section 16 of that Act at any time.

►<sup>4</sup>(5A) Where—

- (a) the Secretary of State makes a decision (“decision A”) and there is an appeal;
- (b) there is a further decision in relation to the appellant (“decision B”) after the appeal but before the appeal results in a decision by ►<sup>5</sup>the First-tier Tribunal◀ (“decision C”); and
- (c) the Secretary of State would have made decision B differently if he had been aware of decision C at the time he made decision B,

decision B may be revised at any time.◀

(6)-(7) ►<sup>6</sup>◀

►<sup>7</sup>(8) Subject to paragraph (9), section 16 of the Child Support Act shall apply in relation to any decision of the Secretary of State not to make a maintenance calculation, as it applies in relation to any decision of the Secretary of State under sections 11, 12 or 17 of that Act, or the determination of an appeal tribunal on a referral under section 28D(1)(b) of that Act.

(9) Paragraph (8) shall not apply to any decision not to make a maintenance calculation where the Secretary of State makes a decision under section 12 of the Child Support Act.◀

### ►<sup>8</sup>Consideration of revision before appeal in relation to certain child support decisions

**3B.—**(1) This regulation applies in a case where—

- (a) the Secretary of State gives a person written notice of a decision; and
- (b) that notice includes a statement to the effect that there is a right of appeal against the decision only if the Secretary of State has considered an application for a revision of the decision.

(2) In a case to which this regulation applies, a person has a right of appeal under section 20 of the Child Support Act 1991 (as substituted by section 10 of the Child Support, Pensions and Social Security Act 2000) against the decision only if the Secretary of State has considered on an application whether to revise the decision under section 16 of that Act.

(3) The notice referred to in paragraph (1) must inform the person of the time limit specified in regulation 3A(1)(a) for making an application for a revision

(4) Where, as the result of paragraph (2), there is no right of appeal against a decision, the Secretary of State may treat any purported appeal as an application for a revision under section 16 of that Act.

(5) In this regulation “decision” means a decision mentioned in section 20(1)(a) or (b) of the Child Support Act 1991 (as substituted by section 10 of the Child Support, Pensions and Social Security Act 2000).◀



**Late application for a revision**

4.—(1) The time limit for making an application for a revision specified in regulation 3(1) or (3) ►<sup>1</sup>◄ may be extended where the conditions specified in the following provisions of this regulation are satisfied.

(2) An application for an extension of time shall be made by ►<sup>2</sup>◄ the claimant or a person acting on his behalf.

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, Regs. 4(1) & (2) are reproduced below.*

4.—(1) The time limit for making an application for a revision specified in regulation 3(1) or (3) ►<sup>3</sup>or 3A(1)(a)◄ may be extended where the conditions specified in the following provisions of this regulation are satisfied.

(2) An application for an extension of time shall be made by ►<sup>4</sup>the relevant person,◄ the claimant or a person acting on his behalf.

(3) An application shall—

- (a) contain particulars of the grounds on which the extension of time is sought and shall contain sufficient details of the decision which it is sought to have revised to enable that decision to be identified; and
- (b) be made within 13 months of the date of notification of the decision which it is sought to have revised.

►<sup>5</sup>, but if the applicant has requested a statement of the reasons in accordance with ►<sup>6</sup>regulation 3ZA(3)(b) or ◄ regulation 28(1)(b) the 13 month period shall be extended by—

- (i) if the statement is provided within one month of the notification, an additional 14 days; or
- (ii) if it is provided after the elapse of a period after the one month ends, the length of that period and an additional 14 days.◄

(4) An application for an extension of time shall not be granted unless the applicant satisfies the Secretary of State►<sup>7</sup>, the Commission◄ [►<sup>8</sup>or the Board or an officer of the Board◄] that—

- (a) it is reasonable to grant the application;
- (b) the application for revision has merit►<sup>6</sup>, except in a case to which regulation 3ZA or 3B applies◄; and
- (c) special circumstances are relevant to the application and as a result of those special circumstances it was not practicable for the application to be made within the time limit specified in regulation 3 ►<sup>9</sup>◄.

(5) In determining whether it is reasonable to grant an application, the Secretary of State►<sup>7</sup>, the Commission◄ [►<sup>8</sup>or the Board or an officer of the Board◄] shall have regard to the principle that the greater the amount of time that has elapsed between the expiration of the time specified in regulation 3(1) and (3) ►<sup>9</sup>◄ for applying for a revision and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, Regs. 4(4)(c) & (5) are reproduced below.*

(c) special circumstances are relevant to the application and as a result of those special circumstances it was not practicable for the application to be made within the time limit specified in regulation 3 ►<sup>10</sup>or 3A◄.

(5) In determining whether it is reasonable to grant an application, the Secretary of State►<sup>11</sup>, the Commission◄ [►<sup>12</sup>or the Board or an officer of the Board◄] shall have regard to the principle that the greater the amount of time that has elapsed between the expiration of the time specified in regulation 3(1) and (3) ►<sup>10</sup>and regulation 3A(1)(a)◄ for applying for a revision and the making of the application for an extension of time, the more compelling should be the special circumstances on which the application is based.

<sup>1</sup>Words omitted in reg. 4(1) by reg. 6(4) of S.I. 2012/2785 as from 10.12.12.

<sup>2</sup>Words omitted in reg. 4(2) by reg. 6(4) of S.I. 2012/2785 as from 10.12.12.

<sup>3</sup>Words inserted in reg. 4(1) by regs. 6 & 6(d) of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant dates.

<sup>4</sup>Words inserted in reg. 4(2) by reg. 6 of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant dates.

<sup>5</sup>Words inserted in reg. 4(3) by reg. 2(3) of S.I. 2005/337 as from 18.3.05.

<sup>6</sup>Words in reg. 4(3), (4)(b) inserted by reg. 4(5)(a)-(b) of S.I. 2013/2380 as from 28.10.13.

<sup>7</sup>Words inserted in reg. 4(4) & (5) by reg. 4(3) of S.I. 2009/396 as from 6.4.09.

<sup>8</sup>Words in square brackets inserted in regs. 4(4) & (5) for tax credits purposes only by reg. 7 of S.I. 1999/2750 as from 5.10.99.

<sup>9</sup>Words omitted in reg. 4(4)(c) and (5) by reg. 6(4) of S.I. 2012/2785 as from 8.10.12.

<sup>10</sup>Words inserted in regs. 4(4)(c) & 4(5) by regs. 6 & 6(d) of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant dates.

<sup>11</sup>Words inserted in reg. 4(5) by reg. 4(4) of S.I. 2009/396 as from 6.4.09.

<sup>12</sup>Words in square brackets inserted in reg. 4(5) for tax credits purposes only by reg. 7 of S.I. 1999/2750 as from 5.10.99.

<sup>1</sup>Words in reg. (6) inserted by reg. 4(5)(c) of S.I. 2013/2380 as from 28.10.13.

<sup>2</sup>Words substituted in reg. 4(6)(b) by Sch. 1 para. 100 of S.I. 2008/2683 as from 3.11.08.

<sup>3</sup>Reg. 5 renumbered as 5(1) & para. (2) inserted by reg. 3 of S.I. 2004/2283 as from 27.9.04.

<sup>4</sup>Words in square brackets inserted in reg. 5 for tax credits purposes only by reg. 8 of S.I. 1999/2570 as from 5.10.99.

<sup>5</sup>Reg. 5A omitted by reg. 6(3) of S.I. 2012/2785 as from 10.12.12.

<sup>6</sup>Reg. 5A inserted by reg. 7 of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

<sup>7</sup>Paras. (2) & (3) of Reg. 5A omitted by reg. 4(2) of S.I. 2006/1520 as from 12.7.06.

(6) In determining whether it is reasonable to grant the application for an extension of time<sup>1</sup>, except in a case to which regulation 3ZA or 3B applies<sup>2</sup>, no account shall be taken of the following—

- (a) that the applicant or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that <sup>3</sup>the Upper Tribunal<sup>4</sup> or a court has taken a different view of the law from that previously understood and applied.

(7) An application under this regulation for an extension of time which has been refused may not be renewed.

#### Date from which a decision revised under section 9 takes effect

**5.**<sup>3</sup>—(1)<sup>4</sup> Where, on a revision under section 9, the Secretary of State [<sup>4</sup>or the Board or an officer of the Board<sup>4</sup>] decides that the date from which the decision under section 8 or 10 (“the original decision”) took effect was erroneous, the decision under section 9 shall take effect on the date from which the original decision would have taken effect had the error not been made.

<sup>3</sup>(2) Where—

- (a) a person attains pensionable age, claims a retirement pension after the prescribed time for claiming and the Secretary of State decides (“the original decision”) that he is not entitled because—
  - (i) in the case of a Category A retirement pension, the person has not satisfied the contribution conditions; or
  - (ii) in the case of a Category B retirement pension, the person’s spouse has not satisfied the contribution conditions;
- (b) in accordance with regulation 50A of the Social Security (Contributions) Regulations 2001<sup>(a)</sup> (Class 3 contributions: tax years 1996-97 to 2001-02) the Board subsequently accepts Class 3 contributions paid after the due date by the claimant or, as the case may be, the spouse;
- (c) in accordance with regulation 6A of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001<sup>(b)</sup> the contributions are treated as paid on a date earlier than the date on which they were paid; and
- (d) the Secretary of State revises the original decision in accordance with regulation 11A(4)(a),

the revised decision shall take effect from—

- (i) 1st October 1998; or
- (ii) the date on which the claimant attained pensionable age in the case of a Category A pension, or, in the case of a Category B pension, the date on which the claimant’s spouse attained pensionable age,

whichever is later.<sup>4</sup>

#### **5A.**<sup>5</sup>

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, Reg. 5A is reproduced below.*

<sup>6</sup>Date from which a decision revised under section 16 of the Child Support Act takes effect.

5A.—(1) Where the date from which a decision took effect is found to be erroneous on a revision under section 16 of the Child Support Act, the revision shall take effect from the date on which the decision revised would have taken effect had the error not been made.

(2)-(3) <sup>7</sup>

(a) S.I. 2001/1004; regulation 50A was inserted by S.I. 2004/1362.

(b) S.I. 2001/769; regulation 6A was inserted by S.I. 2004/1361.

CHAPTER II

SUPERSESIONS

Supersession of decisions

6.—(1) Subject to the following provisions of this regulation, for the purposes of section 10, the cases and circumstances in which a decision may be superseded under that section are set out in paragraphs (2) to (4).

(2) A decision under section 10 may be made on the Secretary of State's [▶<sup>1</sup>or the Board's◀] own initiative or on an application made for the purpose on the basis that the decision to be superseded—

(a) is one in respect of which—

(i) ▶<sup>2</sup>◀

(ii) it is anticipated that a relevant change of circumstances will occur;

(b) is a decision of the Secretary of State [▶<sup>1</sup>or the Board or an officer of the Board◀] other than a decision to which sub-paragraph (d) refers and—

(i) the decision was erroneous in point of law, or it was made in ignorance of, or was based upon a mistake as to, some material fact; and

(ii) an application for a supersession was received by the Secretary of State [▶<sup>1</sup>or the Board◀,] or the decision by the Secretary of State [▶<sup>1</sup>or the Board◀] to act on his [▶<sup>1</sup>or their◀] own initiative was taken, more than one month after the date of notification of the decision which is to be superseded or after the expiry of such longer period of time as may have been allowed under regulation 4;

▶<sup>3</sup>(c) is a decision of ▶<sup>4</sup>the First-tier Tribunal or of the Upper Tribunal◀—

(i) that was made in ignorance of, or was based upon a mistake as to, some material fact; or

(ii) that was made in accordance with section 26(4)(b), in a case where section 26(5) applies;▶<sup>3</sup>◀

(d) is a decision which is specified in Schedule 2 to the Act or is prescribed in regulation 27 (decisions against which no appeal lies);▶<sup>3</sup>◀

▶<sup>5</sup>(e) is a decision where—

(i) the claimant has been awarded entitlement to a relevant benefit; and

(ii) ▶<sup>6</sup>subsequent to the first day of the period to which that entitlement relates◀, the claimant or a member of his family becomes entitled to, ▶<sup>6</sup>◀ another relevant benefit or an increase in the rate of another relevant benefit;▶

▶<sup>7</sup>(ee) is an original award within the meaning of regulation 3(7AZ) and sub-paragraphs (a) to (c) and (d)(ii) of regulation 3(7ZA) apply but not sub-paragraph (d)(i);▶

▶<sup>8</sup>(f) is a decision that a jobseeker's allowance is payable to a claimant where that allowance ceases to be payable by virtue of ▶<sup>9</sup>regulation 27A of the Jobseeker's Allowance Regulations or◀ section 19(1) of the Jobseekers Act ▶<sup>10</sup>or ceases to be payable or is reduced by virtue of section 20A(5) of that Act◀;▶

▶<sup>11</sup>(fa) is a decision that a jobseeker's allowance is payable to a claimant where that allowance ceases to be payable or is reduced by virtue of regulations made under section 17A of the Jobseekers Act;▶

▶<sup>12</sup>(g) is an incapacity benefit decision where there has been an incapacity determination (whether before or after the decision) and where, since the decision was made, the Secretary of State has received medical evidence following an examination in accordance with regulation 8 of the Social

<sup>1</sup>Words in square brackets inserted in reg. 6(2) for tax credits purposes only by reg. 9(2) of S.I. 1999/2570 as from 5.10.99.

<sup>2</sup>Words omitted in reg. (6)(2)(i) by reg. 4(4) of S.I. 2010/424. See reg. 1(2) *ibid* for relevant commencement date.

<sup>3</sup>Para. (2)(c) substituted & words in para. (2)(d) omitted by reg. 3(3) of S.I. 2003/1050 as from 5.5.03.

<sup>4</sup>Words substituted in reg. 6(2)(c) by para. 101(a) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

<sup>5</sup>Para. (e) substituted in reg. 6(2) by reg. 16 of S.I. 2000/1596 as from 19.6.00.

<sup>6</sup>Words in reg. 6(2)(e) (ii) substituted & deleted by reg. 4(3) of S.I. 2002/428 as from 2.4.02.

<sup>7</sup>Reg. 6(2)(ee) added by reg. 2(4)(b) of S.I. 2005/337 as from 18.3.05.

<sup>8</sup>Sub-para. (f) of reg. 6 substituted by reg. 7(a) of S.I. 1999/2677 as from 18.10.99.

<sup>9</sup>Words inserted in reg. 6(2)(f) by reg. 3(3) of S.I. 2010/509 as from 6.4.10.

<sup>10</sup>Words inserted in reg. 6(2)(f) by reg. 5(b) of S.I. 2000/1982 as from 19.3.01.

<sup>11</sup>Reg. 6(2)(fa) inserted by reg. 18(b) of S.I. 2011/688 as from 25.4.11.

<sup>12</sup>Sub-para. (g) inserted by reg. 3 of S.I. 1999/1623 as from 5.7.99.

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<sup>1</sup>Words substituted in reg. 6(2)(g) by reg. 3(3)(a) of S.I. 2008/2667 as from 30.10.08.

<sup>2</sup>Word “and” omitted from reg. 6(2)(g) by reg. 3(3)(d) of S.I. 2003/1050 as from 5.5.03.

<sup>3</sup>Para. (h) added to reg. 6(2) by Sch. 6, para. 4 of S.I. 2000/897 as from 3.4.00.

<sup>4</sup>Words substituted & inserted in reg. 6(2)(h) by reg. 2 of S.I. 2010/563 as from 6.4.10.

<sup>5</sup>Words in reg. 6(2)(h)(ii) inserted by reg. 15(4) of S.I. 2003/1886 as from 12.4.04.

<sup>6</sup>Words substituted in reg. 6(2)(h)(ii) by reg. 24(3) of S.I. 2004/959 from 26.4.04.

<sup>7</sup>Sub-para. (i) omitted from reg. 6(2) by reg. 4(4) of S.I. 2010/424. See reg. 1(2) *ibid* for relevant commencement date.

<sup>8</sup>Sub-para. (j) & (k) inserted into reg. 6(2) by reg. 8(b) of S.I. 2002/490 as from 1.4.02.

<sup>9</sup>Words in reg. 6(2)(j) inserted & substituted by reg. 3(3) of S.I. 2010/1160 as from 1.4.10.

<sup>10</sup>Sub-para. (l) inserted in reg. 6(2) by reg. 17(a) of S.I. 2002/3019 as from 7.4.03.

<sup>11</sup>Sub-para. (m) inserted in reg. 6(2) by reg. 5(2) of S.I. 2003/2274 as from 6.10.03.

<sup>12</sup>Sub-para. (n) added to reg. 6(2) by reg. 2(4) (c) of S.I. 2005/337 as from 18.3.05.

<sup>13</sup>Words in sub-para. (n) substituted by para. 101(b) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

<sup>14</sup>Sub-para. (o) added to reg. 6(2) by reg. 9(4) of S.I. 2005/2677 as from 6.4.06.

Security (Incapacity for Work) (General) Regulations 1995(a) from a <sup>1</sup>Health Care professional<sup>2</sup> referred to in paragraph (1) of that regulation<sup>3</sup>; <sup>2</sup>and <sup>3</sup>and

- (h) is one in respect of a person who—
- (i) is subsequently the subject of a separate decision or determination as to whether or not he took part in a work-focused interview;
- (ii) had been held not to have taken part in a work-focused interview, but who had, subsequent to the decision to be superseded, attained <sup>4</sup>pensionable age<sup>5</sup> or ceased to reside in an area in which there is a requirement to take part in a work-focused interview<sup>6</sup> or, in the case of a partner who was required to take part in a work-focused interview <sup>6</sup>in accordance with regulations made under section 2AA of the Administration Act, ceased to be a partner for the purposes of those regulations or is no longer a partner to whom the requirement to take part in a work focused interview under those regulations applies <sup>4</sup>(and in this head “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995(b), save that a man born before 6th April 1955 is treated as attaining pensionable age when a woman born on the same day as the man would attain pensionable age)<sup>7</sup>;
- (i) <sup>7</sup>;
- <sup>8</sup>(j) is a decision of the Secretary of State that a sanctionable benefit is payable to a claimant where that benefit ceases to be payable or falls to be reduced under section <sup>9</sup>6B, <sup>7</sup> or 9 of the Social Security Fraud Act 2001 and for this purpose “sanctionable benefit” has the <sup>9</sup>meaning given in section 6A<sup>8</sup> of that Act;
- (k) is a decision of the Secretary of State that a joint-claim jobseeker’s allowance is payable where that allowance ceases to be payable or falls to be reduced under section 8 of the Social Security Fraud Act 2001;<sup>9</sup>
- <sup>10</sup>(l) is a relevant decision for the purposes of section 6 of the State Pension Credit Act and—
- (i) on making that decision, the Secretary of State specified a period as the assessed income period; and
- (ii) that period has ended or is about to end.<sup>10</sup>
- <sup>11</sup>(m) is a relevant decision for the purposes of section 6 of the State Pension Credit Act in a case where—
- (i) the information and evidence required under regulation 32(6)(a) of the Claims and Payments Regulations has not been provided in accordance with the time limits set out in regulation 32(6)(c) of those Regulations;
- (ii) the Secretary of State was prevented from specifying a new assessed income period under regulation 10(1) of the State Pension Credit Regulations; and
- (iii) the information and evidence required under regulation 32(6)(a) of the Claims and Payments Regulations has since been provided.<sup>11</sup>
- <sup>12</sup>(n) is a decision by <sup>13</sup>the First-tier Tribunal<sup>12</sup> confirming a decision by the Secretary of State terminating a claimant’s entitlement to income support because he no longer falls within the category of person specified in paragraph 7 of Schedule 1B to the Income Support Regulations (persons incapable of work) and a further <sup>13</sup>decision of the First-tier Tribunal<sup>13</sup> subsequently determines that he is incapable of work.<sup>12</sup>
- <sup>14</sup>(o) is a decision that a person is entitled to state pension credit and—
- (i) the person or his partner makes, or is treated as having made, an election for a lump sum in accordance with—
- (aa) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act(c);
- (bb) paragraph 1 of Schedule 5A to that Act(d); or, as the case may be,

(a) S.I. 1995/311; relevant amending instruments are S.I. 1995/987, 1996/3207 and 1997/1009.

(b) 1995 c. 26.

(c) Paragraphs A1 and 3C are inserted respectively by paragraphs 4 and 9 of Schedule 11 to the Pensions Act 2004 (c. 35).

(d) Schedule 5A is inserted by paragraph 15 of Schedule 11 to the Pensions Act 2004.



- (cc) paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations; or
  - (ii) such a lump sum is repaid in consequence of an application to change an election for a lump sum in accordance with regulation 5 of the Deferral of Retirement Pensions etc. Regulations or, as the case may be, paragraph 20D of Schedule 1 to the Graduated Retirement Benefit Regulations.◀
  - ▶<sup>1</sup>(p) is a decision awarding employment and support allowance where there has been a failure determination;
  - (q) is a decision made in consequence of a failure determination where the reduction ceases to have effect under of regulation 64 of the Employment and Support Allowance Regulations;
  - ▶<sup>2</sup>(r) is an employment and support allowance decision where, since the decision was made, the Secretary of State has—
    - (i) received medical evidence from a health care professional approved by the Secretary of State, or
    - (ii) made a determination that the claimant is to be treated as having limited capability for work in accordance with regulation 20, 25, 26 or 32(2) of the Employment and Support Allowance Regulations.◀.◀
  - ▶<sup>3</sup>(s) is a decision where on or after the date on which the decision was made, a late or unpaid contribution is treated as paid under—
    - (i) regulation 5 of the Social Security (Crediting and Treatment of Contributions and National Insurance Numbers) Regulations 2001 (treatment of late paid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made;
    - (ii) regulation 6 of those Regulations (treatment of contributions paid late through ignorance or error) on a date which falls on or before the date on which the original decision was made; or
    - (iii) regulation 60 of the Social Security (Contributions) Regulations 2001 (treatment of unpaid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made.◀
  - ▶<sup>4</sup>(t) is a decision awarding income support where there has been a determination by the Secretary of State under regulation 6(2) of the Income Support Work-Related Activity Regulations that a person has failed to undertake work-related activity.
  - (u) is a decision made in consequence of a determination by the Secretary of State that a person has failed to undertake work-related activity where a reduction under regulation 8(1) of the Income Support Work-Related Activity Regulations ceases to have effect by virtue of regulation 9 of those Regulations.◀
- (3) A decision which may be revised under regulation 3 may not be superseded under this regulation except where—
- (a) circumstances arise in which the Secretary of State [▶<sup>5</sup>or the Board or an officer of the Board◀] may revise that decision under regulation 3; and
  - (b) further circumstances arise in relation to that decision which are not specified in regulation 3 but are specified in paragraph (2) or (4).
- (4) Where the Secretary of State requires [▶<sup>5</sup>or the Board require◀] further evidence or information from the applicant in order to consider all the issues raised by an application under paragraph (2) (“the original application”), he [▶<sup>5</sup>or they◀] shall notify the applicant that further evidence or information is required and the decision may be superseded—
- (a) where the applicant provides further relevant evidence or information within one month of the date of notification or such longer period of time as the Secretary of State [▶<sup>5</sup>or the Board◀] may allow; or
  - (b) where the applicant does not provide such evidence or information within the time allowed under sub-paragraph (a), on the basis of the original application.
- (5) The Secretary of State [▶<sup>4</sup>or the Board◀] may treat an application for a revision or a notification of a change of circumstances as an application for a supersession.

<sup>1</sup>Sub-paras. (p)-(r) inserted in reg. 6(2) & words added to para. (6)(a) by reg. 32(2)(c) & (3) of S.I. 2008/1554 as from 27.10.08.

<sup>2</sup>Reg. 6(2)(r) substituted by reg. 7(3) of S.I. 2010/840 as from 28.6.10.

<sup>3</sup>Sub-para. (s) inserted in reg. 6(2) by reg. 3(3)(b) of S.I. 2008/2667 as from 30.10.08.

<sup>4</sup>Reg. 6(2)(t) & (u) inserted by reg. 12(4) of S.I. 2014/1097 as from 28.4.14.

<sup>5</sup>Words in square brackets inserted in reg. 6 for tax credits purposes only by reg. 9 of S.I. 1999/2570 as from 5.10.99.

## Regs. 6-6B

(6) The following events are not relevant changes of circumstances for the purposes of paragraph (2)–

<sup>1</sup>Reg. 6(2) & words added to para. (6)(a) by reg. 32(2)(c) & (3) of S.I. 2008/1554 as from 27.10.08.

<sup>2</sup>Reg. 6(b) omitted by reg. 2(4)(d) of S.I. 2005/337 as from 18.3.05.

<sup>3</sup>Sub-para. (c) added to reg. 6 by reg. 7(b) of S.I. 1999/2677 as from 18.10.99.

(a) the repayment of a loan to which regulation 66A of the Income Support Regulations<sup>(a)</sup><sup>1</sup>, regulation 137 of the Employment and Support Allowance Regulations<sup>◀</sup> or regulation 136 of the Jobseeker's Allowance Regulations applies;

(b) <sup>2</sup>◀

<sup>3</sup>(c) the fact that a person has become terminally ill, within the meaning of section 66(2)(a) of the Contributions and Benefits Act, unless an application for supersession which contains an express statement that the person is terminally ill is made either by–

(i) the person himself; or

(ii) any other person purporting to act on his behalf whether or not that other person is acting with his knowledge or authority;

and where such an application is received a decision may be so superseded notwithstanding that no claim under section 66(1) or, as the case may be, 72(5) or 73(12) of that Act has been made.◀

(7) In paragraph (6)(b), “nursing home” and “residential care home” have the same meanings as they have in regulation 19 of the Income Support Regulations.

<sup>4</sup>Para. (8) inserted in reg. 6 by reg. 17(b) of S.I. 2002/3019 as from 7.4.03.

<sup>4</sup>(8) In relation to the assessed income period, the only change of circumstances relevant for the purposes of paragraph (2)(a) is that the assessed income period ends in accordance with section 9(4) of the State Pension Credit Act or the regulations made under section 9(5) of that Act.◀

<sup>5</sup>Regs. 6A & 6B omitted by reg. 6(3) of S.I. 2012/2785 as from 10.12.12.

**6A.-6B.** <sup>5</sup>◀

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, Regs. 6A & 6B is reproduced below.*

**◀<sup>6</sup>Supersession of child support decisions**

6A.—(1) This regulation and regulation 6B set out the circumstances in which a decision may be made by the Commission under section 17 of the Child Support Act (decisions superseding earlier decisions).

(2) A decision may be superseded by a decision of the Commission, on an application or acting under its own initiative, where–

- (a) there has been a relevant change of circumstances since the decision had effect or it is expected that a relevant change of circumstances will occur;
- (b) the decision was made in ignorance of, or was based on a mistake as to, some material fact; or
- (c) the decision was wrong in law (unless it was a decision made on appeal).

(3) The circumstances in which a decision may be superseded include where the relevant change of circumstances causes the maintenance calculation to cease by virtue of paragraph 16 of Schedule 1 to the Child Support Act or where the Commission no longer has jurisdiction by virtue of section 44 of that Act.

(4) A decision may be superseded by a decision of the Commission where the Commission receives an application for a variation of the decision under section 28G of the Child Support Act.

(5) A decision may not be superseded in circumstances where it may be revised.

(6) A decision to refuse an application for a maintenance calculation may not be superseded.◀

<sup>7</sup>Circumstances in which a child support decision may not be superseded

6B.—(1) Except as provided in paragraph (4), and subject to paragraph (3), a decision of the <sup>8</sup>Commission<sup>◀</sup>, <sup>9</sup>the First-tier Tribunal or the Upper Tribunal<sup>◀</sup> on an application made under regulation <sup>8</sup>6A(2)(a)<sup>◀</sup>, shall not be superseded where the difference between–

<sup>6</sup>Reg. 6B inserted by reg. 8 of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

<sup>7</sup>Words “Commission” and “6A(2)(a)” substituted by reg. 4(5)(a) and (b) of S.I. 2009/396 as from 6.4.09.

<sup>8</sup>Words in regs. 6B(1) substituted by para. 103 of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

(a) Regulation 66A was inserted by S.I. 1990/1549; relevant amending instruments are S.I. 1991/236, S.I. 1991/1559 and S.I. 1996/462.

- (a) the non-resident parent's net income figure fixed for the purposes of the maintenance calculation in force in accordance with Part I of Schedule 1 to the Child Support Act; and
- (b) the non-resident parent's net income figure which would be fixed in accordance with a superseding decision,

is less than 5% of the figure in sub-paragraph (a).

(2) In paragraph (1) "superseding decision" means a decision which would supersede the decision subject to the application made under regulation 6A(3) but for the application of this regulation.

►<sup>1</sup>(3) Where the application for a supersession is made on more than one ground, if those grounds which do not relate to the net income of the non-resident parent lead to a superseding decision this regulation shall not apply to the ground relating to the net income of that parent.◀

(4) This regulation shall not apply to a decision under regulation 6A(3) where—

- (a) the superseding decision is made in consequence of the determination of an application made under section 28G of the Child Support Act;
- (b) the superseding decision affects a variation ground in a decision made under section 11 or 17 of the Child Support Act, whether as originally made or as revised under section 16 of that Act;
- (c) the decision being superseded was made under section 12(2) of the Child Support Act, or was a decision under section 17 of that Act superseding an interim maintenance decision, whether as originally made or as revised under section 16 of that Act;
- (d) ►<sup>2</sup>◀
- (e) the superseding decision takes effect from the dates prescribed in regulation ►<sup>2</sup>paragraph 4 of Schedule 3D◀. ►<sup>3</sup>; or
- (f) a decision is superseded and in relation to that superseding decision a maintenance calculation is made to which paragraph 15 of Schedule 1 to the Child Support Act applies.◀

►<sup>4</sup>(5) Where an application has been made to which paragraph (1) applied ("application A") and a further application ("application B") is made for a supersession on a ground other than one relating to the net income of the non-resident parent, the Secretary of State may make a superseding decision on the basis that application A was made at the same time as application B.◀◀

<sup>1</sup>Para. (3) of reg. 6B substituted by reg. 2(2)(a) of S.I. 2004/2415 as from 16.9.04. See reg. 1(2)(b) *ibid* at page 8911 for exceptions to this.

<sup>2</sup>Para. (4)(d) omitted & words substituted in para. (4)(e) by reg. 4(5)(c) and (d) of S.I. 2009/396 as from 6.4.09.

<sup>3</sup>Reg. 6(4)(f) inserted by reg. 2(3)(b) of S.I. 2011/1464 as from 4.7.11.

<sup>4</sup>Para. (5) inserted into reg. 6B by reg. 2(2)(b) of S.I. 2004/2415 as from 16.9.04. See reg. 1(2)(b) *ibid* at page 8911 for exceptions to this.

### Date from which a decision superseded under section 10 takes effect

7.—►<sup>5</sup>(1) This regulation—

- <sup>6</sup>(a) is, except for ►<sup>7</sup>paragraphs (2)(b),►<sup>8</sup>(bb)◀►<sup>9</sup>or (be),◀ (29) and (30)◀ and (29), subject to Schedule 3A►<sup>9</sup>, 3B and 3C◀; and◀
- (b) contains exceptions to the provisions of section 10(5) as to the date from which a decision under section 10 which supersedes an earlier decision is to take effect.◀

(2) Where a decision under section 10 is made on the ground that there has been, or it is anticipated that there will be, a relevant change of circumstances since the decision ►<sup>7</sup>had effect◀►<sup>10</sup>, or, in the case of an advance award, since the decision was made◀ the decision under section 10 shall take effect—

- <sup>5</sup>(a) from the date the change occurred or, where the change does not have effect until a later date, from the first date on which such effect occurs where—
  - (i) the decision is advantageous to the claimant; and
  - (ii) the change was notified to an appropriate office within one month of the change occurring or within such longer period as may be allowed under regulation 8 for the claimant's failure to notify the change on an earlier date;◀

<sup>5</sup>Regs. 7(1) & (2)(a) substituted by para. 1 of Sch. 19 to S.I. 1999/3178 as from 29.11.99.

<sup>6</sup>Sub-para. (a) substituted in reg. 7(1) by reg. 18(a) of S.I. 2002/3019 as from 7.4.03.

<sup>7</sup>Words substituted in reg. 7(1)(a) & (2) by reg. 3(5)(a) & (b) of S.I. 2003/1050 as from 5.5.03.

<sup>8</sup>Words inserted in reg. 7(1)(a) by reg. 3(4)(a) of S.I. 2008/2667 as from 30.10.08.

<sup>9</sup>Words inserted in reg. 7(1)(a) by reg. 33(2)-(3) of S.I. 2008/1554 as from 27.10.08.

<sup>10</sup>Words in reg. 7(2) added by reg. 2(5)(a) of S.I. 2005/337 as from 18.3.05.

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- (b) where the decision is advantageous to the claimant and the change was notified to an appropriate office more than one month after the change occurred or after the expiry of any such longer period as may have been allowed under regulation 8—

<sup>1</sup>Words substituted in reg. 7(2)(b)(i) & (ii) by reg. 18(b) of S.I. 2002/3019 as from 7.4.03.

<sup>2</sup>Words substituted in reg. 7(2)(b) by reg. 33(2)-(3) of S.I. 2008/1554 as from 27.10.08.

- (i) in the case of a claimant who is in receipt of income support<sup>1</sup>, jobseeker's allowance<sup>2</sup>, state pension credit or an employment and support allowance<sup>3</sup> and benefit is paid in arrears, from the beginning of the benefit week in which the notification was made;
- (ii) in the case of a claimant who is in receipt of income support<sup>1</sup> jobseeker's allowance or state pension credit<sup>4</sup> and benefit is paid in advance and the date of notification is the first day of a benefit week from that date and otherwise, from the beginning of the benefit week following the week in which the notification was made; or
- (iii) in any other case, the date of notification of the relevant change of circumstances; or

<sup>3</sup>Sub-para. (bb) & (bc) substituted by reg. 3(4)(b) of S.I. 2008/2667 as from 30.10.08.

- ▶<sup>3</sup>(bb) where the decision is advantageous to the claimant and is made on the Secretary of State's own initiative—

- (i) except where paragraph (ii) applies, from the beginning of the benefit week in which the Secretary of State commenced action with a view to supersession; or
- (ii) in the case of a claimant who is in receipt of income support, jobseeker's allowance or state pension credit where benefit is paid in advance and the Secretary of State commenced action with a view to supersession on a day which was not the first day of the benefit week, from the beginning of the benefit week following the week in which the Secretary of State commenced such action;

- (bc) where—

- (i) the claimant is a disabled person or a disabled person's partner;
- (ii) the decision is advantageous to the claimant; and
- (iii) the decision is made in connection with the cessation of payment of a carer's allowance relating to that disabled person,

the day after the last day for which carer's allowance was paid to a person other than the claimant or the claimant's partner;◀

<sup>4</sup>Sub-para. (2)(bd) omitted by reg. 2(b)(ii) of S.I. 2008/1042 as from 19.5.08.

<sup>5</sup>Reg. 7(2)(be) inserted by reg. 33(3)(b) & (4) of S.I. 2008/1554 as from 27.10.08.

<sup>6</sup>Head (i) omitted in reg. 7(2)(c) by para. 1(b)(ii) of Sch. 19 to S.I. 1999/3178 as from 29.11.99.

<sup>7</sup>Head (ii) substituted in reg. 7 by reg. 4 of S.I. 1999/1623 as from 5.7.99.

<sup>8</sup>Words inserted in reg. 7(2)(c)(ii) by reg. 3(3) of S.I. 2009/1490 as from 13.7.09.

- (bd) ▶<sup>4</sup>◀

- ▶<sup>5</sup>(be) in the case of a claimant who is in receipt of an employment and support allowance and the claimant makes an application which contains an express statement that he is terminally ill within the meaning of regulation 2(1) of the Employment and Support Allowance Regulations, from the date the claimant became terminally ill;◀

- (c) where the decision is not advantageous to the claimant—

- (i) ▶<sup>6</sup>◀

- ▶<sup>7</sup>(ii) in the case of a disability benefit decision, or an incapacity benefit decision where there has been an incapacity determination ▶<sup>8</sup>or an employment and support allowance decision where there has been a limited capability for work determination◀ (whether before or after the decision), where the Secretary of State is satisfied that in relation to a disability determination embodied in or necessary to the disability benefit decision, or the incapacity determination ▶<sup>8</sup>or an employment and support allowance decision where there has been a limited capability for work determination◀, the claimant or payee failed to notify an appropriate office of a change of circumstances which regulations under the Administration Act required him to notify, and the claimant or payee, as the case may be, knew or could reasonably have been expected to know that the change of circumstances should have been notified,

- (aa) from the date on which the claimant or payee, as the case may be, ought to have notified the change of circumstances, or

- (bb) if more than one change has taken place between the date from which the decision to be superseded took effect and the date of the superseding decision, from the date on which the first change ought to have been notified, or



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- (iii) ▶<sup>1</sup>◀◀
- ▶<sup>1</sup>(iv) in the case of a disability benefit decision, where the change of circumstances is not in relation to the disability determination embodied in or necessary to the disability benefit decision, from the date of the change; or
- (v) in any other case, except in the case of a decision which supersedes a disability benefit decision, from the date of the change.◀

<sup>1</sup>Heads (iv) & (v) added and (iii) omitted in reg. 7(2)(c) by reg. 5(3)(a) (i) & (ii) of S.I. 2006/832 as from 10.4.06.

(2A) ▶<sup>2</sup>◀

▶<sup>3</sup>(3) For the purposes of paragraphs (2) and (8) “benefit week” has the same meaning, as the case may be, as in—

<sup>2</sup>Reg. 7(2A) omitted by reg. 3(4)(d) of S.I. 2008/2667 as from 30.10.08.

- (a) regulation 2(1) of the Income Support Regulations;
- (b) regulation 1(3) of the Jobseeker’s Allowance Regulations;
- (c) regulation 1(2) of the State Pension Credit Regulations; or
- (d) regulation 2(1) of the Employment and Support Allowance Regulations.◀

<sup>3</sup>Para. (3) substituted by reg. 33(4) of S.I. 2008/1554 as from 27.10.08.

(4) In paragraph (2) a decision which is to the advantage of the claimant includes a decision specified in regulation 30(2)(a) to (f).

▶<sup>4</sup>(5) Where the Secretary of State supersedes a decision made by ▶<sup>5</sup>the First-tier Tribunal or the Upper Tribunal◀ on the grounds specified in regulation 6(2)(c)▶<sup>6</sup>(i)◀ (ignorance of, or mistake as to, a material fact), the decision under section 10 shall take effect, in a case where, as a result of that ignorance of or mistake as to material fact, the decision to be superseded was more advantageous to the claimant than it would otherwise have been and which either—

<sup>4</sup>Para. (5) of reg. 7 substituted by reg. 17 (c) of S.I. 2000/1596 as from 19.6.00.

- (a) does not relate to a disability benefit decision or an incapacity benefit decision where there has been an incapacity determination; or
- (b) relates to a disability benefit decision or an incapacity benefit decision where there has been an incapacity determination, and the Secretary of State is satisfied that at the time the decision was made the claimant or payee knew or could reasonably have been expected to know of the fact in question and that it was relevant to the decision,

<sup>5</sup>Words substituted in reg. 7(5) by para. 104(a) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

<sup>6</sup>Word inserted in para. (5) of reg. 7 by reg. 3(5)(c) of S.I. 2003/1050 as from 5.5.03.

from the date on which the decision of ▶<sup>5</sup>the First-tier Tribunal or the Upper Tribunal◀ took, or was to take, effect.◀

(6) Any decision made under section 10 in consequence of a decision which is a relevant determination for the purposes of section 27 shall take effect as from the date of the relevant determination.

▶<sup>7</sup>(6A) Where—

- (a) there is a decision which is a relevant determination for the purposes of section 27 and the Secretary of State makes a benefit decision of the kind specified in section 27(1)(b);
- (b) there is an appeal against the determination;
- (c) after the benefit decision payment is suspended in accordance with regulation 16(1) and (3)(b)(ii); and
- (d) on appeal a court, within the meaning of section 27, reverses the determination in whole or in part,

<sup>7</sup>Para. (6A) added to reg. 7 by reg. 2(5)(b) of S.I. 2005/337 as from 18.3.05.

a consequential decision by the Secretary of State under section 10 which supersedes his earlier decision under sub-paragraph (a) shall take effect from the date on which the earlier decision took effect.◀

▶<sup>8</sup>(7) A decision which is superseded in accordance with regulation 6(2)(e) or (ee) shall be superseded—

<sup>8</sup>Para. (7) of reg. 7 substituted by reg. 5(3)(b) of S.I. 2006/832 as from 10.4.06.

- (a) subject to sub-paragraph (b), from the date on which entitlement arises to the other relevant benefit referred to in regulation 6(2)(e)(ii) or (ee) or to an increase in the rate of that other relevant benefit; or
- (b) where the claimant or his partner—
  - (i) is not a severely disabled person for the purposes of section 135(5) of the Contributions and Benefits Act (the applicable amount) or section 2(7)

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<sup>1</sup>Words inserted in para. (7)(b) of reg. 7 by reg. 33(5)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

<sup>2</sup>Words inserted in para. 7(b) of reg. 7 by reg. 17 of S.I. 2012/757 as from 8.3.10.

of the State Pension Credit Act (guarantee credit) ►<sup>1</sup>or paragraph 6 of Schedule 4 to the Employment and Support Allowance Regulations;◄

(ii) by virtue of his having—

(aa) a non-dependant as defined by regulation 3 of the Income Support Regulations ►<sup>2</sup>regulation 2 of the Jobseeker's Allowance Regulations◄ ►<sup>1</sup>or regulation 71 of the Employment and Support Allowance Regulations◄; or

(bb) a person residing with him for the purposes of paragraph 1 of Schedule 1 to the State Pension Credit Regulations whose presence may not be ignored in accordance with paragraph 2 of that Schedule,

at the date the superseded decision would, but for this sub-paragraph, have had effect,

from the date on which the claimant or his partner ceased to have a non-dependant or person residing with him or from the date on which the presence of that person was first ignored.◄

<sup>3</sup>Sub-para. (8) added to reg. 7 by reg. 8 of S.I. 1999/2677 as from 18.10.99.

<sup>4</sup>Sub-para. (za) inserted in reg. 7(8) by reg. 3(4) of S.I. 2010/509 as from 6.4.10.

<sup>5</sup>Words inserted in regs. 7(8)(a) & (b) by reg. 5(c) of S.I. 2000/1982 as from 19.3.01.

<sup>6</sup>Reg. 7(8ZA) inserted by reg. 18(c) of S.I. 2011/688 as from 25.4.11.

<sup>7</sup>Reg. 7(8ZB) inserted by reg. 17(a) of S.I. 2011/917 as from 20.5.11.

<sup>8</sup>Reg. 7(8A) inserted and words in (9)(b) & (c) substituted by reg. 3(4)(e) & (f) of S.I. 2008/2667 as from 30.10.08.

<sup>9</sup>Para. (9) substituted by reg. 2 of S.I. 2000/119 as from 17.2.00.

<sup>10</sup>Para. (9)(a) of reg. 7 substituted by reg. 3(5)(d) of S.I. 2003/1050 as from 5.5.03.

►<sup>3</sup>(8) A decision to which regulation 6(2)(f) applies shall take effect—

►<sup>4</sup>(za) where regulation 27A of the Jobseeker's Allowance Regulations applies, as from the beginning of the period specified in regulation 27B of those Regulations;◄

(a) where section 19(2) ►<sup>5</sup>or 20A(3)◄ of the Jobseekers Act applies, as from the beginning of the period specified in regulation 69 of the Jobseeker's Allowance Regulations; or

(b) where section 19(3) ►<sup>5</sup>or 20A(4)◄ of the Jobseekers Act applies, as from the beginning of the period determined in accordance with that subsection.◄

►<sup>6</sup>(8ZA) A decision to which regulation 6(2)(fa) applies shall take effect on the day specified in regulation 8(6)(a) or (b) of the Jobseeker's Allowance (Mandatory Work Activity Scheme) Regulations 2011.◄

►<sup>7</sup>(8ZB) A decision to which regulation 6(2)(fa) applies shall take effect on the day specified in regulation in regulation 8(9)(a) or (b) of the Jobseeker's Allowance (Employment, Skills and Enterprise Scheme) Regulations 2011.◄

►<sup>8</sup>(8A) Where a decision is superseded in accordance with regulation 6(2)(s), the superseding decision shall take effect from the date on which the late or unpaid contribution is treated as paid.◄

►<sup>9</sup>(9) A decision relating to attendance allowance or disability living allowance which is advantageous to the claimant and which is made under section 10 on the basis of a relevant change of circumstances shall take effect from—

►<sup>10</sup>(a) where the decision is made on the Secretary of State's own initiative—

(i) the date on which the Secretary of State commenced action with a view to supersession; or

(ii) subject to paragraph (30), in a case where the relevant circumstances are that there has been a change in the legislation in relation to attendance allowance or disability living allowance, the date on which that change in the legislation had effect;◄

(b) where—

(i) the change is relevant to the question of entitlement to a particular rate of benefit; and

(ii) the claimant notifies the change before a date one month after he satisfied the conditions of entitlement to that rate or within such longer period as may be allowed under regulation 8,

the ►<sup>8</sup>date on which◄ he satisfied those conditions;

(c) where—

(i) the change is relevant to the question of whether benefit is payable; and

(ii) the claimant notifies the change before a date one month after the change or within such longer period as may be allowed under regulation 8,

the ►<sup>8</sup>date on which◄ the change occurred; or

(d) in any other case, the date of the application for the superseding decision.◀

(10) A decision as to an award of incapacity benefit, which is made under section 10 because section 30B(4) of the Contributions and Benefits Act applies to the claimant, shall take effect as from the date on which he became entitled to the highest rate of the care component of disability living allowance.

(11) A decision as to an award of incapacity benefit or severe disablement allowance, which is made under section 10 because the claimant is to be treated as incapable of work under regulation 10 of the Social Security (Incapacity for Work) (General) Regulations 1995<sup>(a)</sup> (certain persons with a severe condition to be treated as incapable of work), shall take effect as from the date he is to be treated as incapable of work.

(12) Where this paragraph applies, a decision under section 10 may be made so as to take effect as from such date not more than eight weeks before—

- (a) the application for supersession; or
- (b) where no application is made, the date on which the decision under section 10 is made,

as is reasonable in the particular circumstances of the case.

(13) Paragraph (12) applies where—

- (a) the effect of a decision under section 10 is that there is to be included in a claimant's applicable amount an amount in respect of a loan which qualifies under—
  - (i) paragraph 15 or 16 of Schedule 3 to the Income Support Regulations; or
  - (ii) paragraph 14 or 15 of Schedule 2 to the Jobseeker's Allowance Regulations; ▶<sup>1</sup>or
  - (iii) paragraph 11 or 12 of Schedule II to the State Pension Credit Regulations; ▶<sup>2</sup>or◀◀
  - ▶<sup>2</sup>(iv) paragraph 16 or 17 of Schedule 6 to the Employment and Support Allowance Regulations; and◀
- (b) that decision could not have been made earlier because information necessary to make that decision, requested otherwise than in accordance with paragraph 10(3)(b) of Schedule 9A to the Claims and Payments Regulations<sup>(b)</sup> (annual requests for information), had not been supplied to the Secretary of State by the lender.

<sup>1</sup>Words substituted & head (iii) inserted in reg. 7(13)(a) by reg. 18(d) of S.I. 2002/3019 as from 7.4.03.

<sup>2</sup>Word substituted in para. (13)(a)(iii) and sub-para. (iv) inserted by reg. 33(6)(a) & (b) of S.I. 2008/1554 as from 27.10.08.

(14) Subject to paragraph (23), where a claimant is in receipt of income support and his applicable amount includes an amount determined in accordance with Schedule 3 to the Income Support Regulations (housing costs), and there is a reduction in the amount of eligible capital owing in connection with a loan which qualifies under paragraph 15 or 16 of that Schedule, a decision made under section 10 shall take effect—

- (a) on the first anniversary of the date on which the claimant's housing costs were first met under that Schedule; or
- (b) where the reduction in eligible capital occurred after the first anniversary of the date referred to in sub-paragraph (a), on the next anniversary of that date following the date of the reduction.

(15) Where a claimant is in receipt of income support and payments made to that claimant which fall within paragraph 29 or 30(1)(a) to (c) of Schedule 9 to the Income Support Regulations have been disregarded in relation to any decision under section 8 or 10 and there is a change in the amount of interest payable—

- (a) on a loan qualifying under paragraph 15 or 16 of Schedule 3 to those Regulations to which those payments relate; or
- (b) on a loan not so qualifying which is secured on the dwelling occupied as the home to which those payments relate,

a decision under section 10 which is made as a result of that change in the amount of interest payable shall take effect on whichever of the dates referred to in paragraph (16) is appropriate in the claimant's case.

(a) S.I. 1995/311; relevant amending instruments are S.I. 1995/987, S.I. 1996/3207 and S.I. 1997/1009.

(b) Schedule 9A was inserted by S.I. 1992/1026.

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(16) The date on which a decision under section 10 takes effect for the purposes of paragraph (15) is—

- (a) the date on which the claimant's housing costs are first met under paragraph 6(1)(a), 8(1)(a) or 9(2)(a) of Schedule 3 to the Income Support Regulations; or
- (b) where the change in the amount of interest payable occurred after the date referred to in sub-paragraph (a), on the date of the next alteration in the standard rate following the date of that change.

(17) In paragraph (16), "standard rate" has the same meaning as it has in paragraph 1(2) of Schedule 3 to the Income Support Regulations.

<sup>1</sup>Para. (17A) inserted in reg. 7 by reg. 18(e) of S.I. 2002/3019 as from 7.4.03.

►<sup>1</sup>(17A) For the purposes of state pension credit—

- (a) paragraph (14) shall apply as if the reference to—
  - (i) "income support and his applicable amount" was a reference to "state pension credit and his appropriate minimum guarantee";
  - (ii) "Schedule 3 to the Income Support Regulations" was a reference to "Schedule II to the State Pension Credit Regulations"; and
  - (iii) "paragraph 15 to 16" was a reference to "paragraph 11 or 12";
- (b) paragraph (15) to (17) shall not apply.◀

<sup>2</sup>Paras. (17B) & (17C) of reg. 7 substituted by reg. 2(a) of S.I. 2004/647 as from 5.4.04.

►<sup>2</sup>(17B) Paragraph (17C) applies where—

- (a) a claimant is awarded state pension credit;
- (b) the claimant or his partner is aged 65 or over;
- (c) his appropriate minimum guarantee (as defined by the State Pension Credit Act) includes housing costs determined in accordance with Schedule II to the State Pension Credit Regulations; and
- (d) after the date from which sub-paragraph (c) applies—
  - (i) a non-dependant (as defined in that Schedule) begins to reside with the claimant; or
  - (ii) ►<sup>3</sup>there has been a change of circumstances in respect of a non-dependant and this reduces◀ the applicable amount of the claimant's housing costs.

(17C) In the circumstances specified in paragraph (17B) a decision made under section 10 shall take effect—

- (a) where there is more than one change of the kind specified in paragraph (17B)(d) in respect of the same non-dependant within the same 26 week period, 26 weeks after the date on which the first such change occurred; and
- (b) in any other circumstances, 26 weeks after the date on which a change specified in paragraph (17B)(d) occurred.◀

<sup>3</sup>Words substituted in reg. 7(17B)(d)(ii) by reg. 4 of S.I. 2004/2327 as from 4.6.05.

►<sup>4</sup>(17D) Except in a case where paragraph (23) applies, where a claimant is in receipt of an employment and support allowance and his applicable amount includes an amount determined in accordance with Schedule 6 to the Employment and Support Allowance Regulations (housing costs), and there is a reduction in the amount of eligible capital owing in connection with a loan which qualifies under paragraph 16 or 17 of that Schedule, a decision made under section 10 shall take effect—

- (a) on the first anniversary of the date on which the claimant's housing costs were first met under that Schedule; or
- (b) where the reduction in eligible capital occurred after the first anniversary of the date referred to in sub-paragraph (a), on the next anniversary of that date following the date of the reduction.

<sup>4</sup>Regs. 7(17D)-(17H) inserted by reg. 33(7) of S.I. 2008/1554 as from 27.10.08.

(17E) Where a claimant is in receipt of an employment and support allowance and payments made to that claimant which fall within paragraph 31 or 32(1)(a) to (c) of Schedule 8 to the Employment and Support Allowance Regulations have been disregarded in relation to any decision under section 8 or 10 and there is a change in the amount of interest payable—

- (a) on a loan qualifying under paragraph 16 or 17 of Schedule 6 to those Regulations to which those payments relate; or
- (b) on a loan not so qualifying which is secured on the dwelling occupied as the home to which those payments relate,



a decision under section 10 which is made as a result of that change in the amount of interest payable shall take effect on whichever of the dates referred to in paragraph (17F) is appropriate in the claimant's case.

(17F) The date on which a decision under section 10 takes effect for the purposes of paragraph (17E) is—

- (a) the date on which the claimant's housing costs are first met under paragraph 8(1)(a), 9(1)(a) or 10(2)(a) of Schedule 6 to the Employment and Support Allowance Regulations; or
- (b) where the change in the amount of interest payable occurred after the date referred to in sub-paragraph (a), on the date of the next alteration in the standard rate following the date of that change.

(17G) In paragraph (17F) "standard rate" has the same meaning as it has in paragraph 13(2) of Schedule 6 to the Employment and Support Allowance Regulations.

(17H) Where the decision is superseded in accordance with regulation 6(2)(a)(i) and the relevant circumstances are that the claimant has a non-dependant who has become entitled to main phase employment and support allowance, the superseding decision shall take effect from the date the main phase employment and support allowance is first paid to the non-dependant. ◀

(18) Subject to paragraph (24) and, except in a case to which paragraph (23) applies, where a claimant is in receipt of a jobseeker's allowance and his applicable amount includes an amount determined in accordance with Schedule 2 to the Jobseeker's Allowance Regulations (housing costs), and there is a reduction in the amount of eligible capital owing in connection with a loan which qualifies under paragraph 14 or 15 of that Schedule, a decision under section 10 made as a result of that reduction shall take effect—

- (a) on the first anniversary of the date on which the claimant's housing costs were first met under that Schedule; or
- (b) where the reduction in eligible capital occurred after the first anniversary of the date referred to in sub-paragraph (a), on the next anniversary of that date following the date of the reduction.

(19) Where a claimant is in receipt of a jobseeker's allowance and payments made to that claimant which fall within paragraph 30 or 31(1)(a) to (c) of Schedule 7 to the Jobseeker's Allowance Regulations have been disregarded in relation to any decision under section 8 or 10 and there is a change in the amount of interest payable—

- (a) on a loan qualifying under paragraph 14 or 15 of Schedule 2 to those Regulations to which those payments relate; or
- (b) on a loan not so qualifying which is secured on the dwelling occupied as the home to which those payments relate,

any decision under section 10 which is made as a result of that change in the amount of interest payable shall take effect on whichever of the dates referred to in paragraph (20) is appropriate in the claimant's case.

(20) The date on which a decision under section 10 takes effect for the purposes of paragraph (19) is—

- (a) the date on which the claimant's housing costs are first met under paragraph 6(1)(a), 7(1)(a) or 8(2)(a) of Schedule 2 to the Jobseeker's Allowance Regulations; or
- (b) where the changes in the amount of interest payable occurred after the date referred to in sub-paragraph (a), on the date of the next alteration in the standard rate following the date of that change.

(21) In paragraph (20), "standard rate" has the same meaning as it has in paragraph 1(2) of Schedule 2 to the Jobseeker's Allowance Regulations.

(22) Where—

- (a) a claimant was paid benefit in respect of 6th October 1996 in accordance with an award of income support;

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- (b) that claimant's applicable amount includes an amount determined in accordance with Schedule 3 to the Income Support Regulations (housing costs);
- (c) that claimant is treated as having been awarded a jobseeker's allowance by virtue of regulation 7 of the Jobseeker's Allowance (Transitional Provisions) Regulations 1996<sup>(a)</sup> (jobseeker's allowance to replace income support and unemployment benefit); and
- (d) a decision is made under section 10 in consequence of a reduction in the amount of eligible capital owing in connection with a loan which qualifies under paragraph 15 or 16 of Schedule 3 to the Income Support Regulations,

the decision under section 10 referred to in sub-paragraph (d) shall take effect on the next anniversary of the date on which housing costs were first met which occurs after the reduction.

<sup>1</sup>Para. (23) substituted in reg. 7 by reg. 6(b) of S.I. 2002/3197 as from 7.4.03.

<sup>2</sup>Words omitted from reg. 7(23) by reg. 2(b) of S.I. 2004/657 as from 5.4.04.

<sup>3</sup>Words inserted in para. (23) & substituted in para. (23)(a) of reg. 7 by reg. 33(8)(a)-(c) of S.I. 2008/1554 as from 27.10.08.

►<sup>1</sup>(23) Where, in any case to which paragraph (14), (17A) ►<sup>2</sup>◄►<sup>3</sup>(17D)◄ or (18) applies, a claimant has been continuously in receipt of, or treated as having been continuously in receipt of income support, a jobseeker's allowance►<sup>3</sup>, an employment and support allowance◄ or state pension credit, or one of those benefits followed by the other, and he or his partner continues to receive any of those benefits, the anniversary to which those paragraphs refer shall be—

- (a) in the case of income support►<sup>3</sup>, jobseeker's allowance or employment and support allowance◄, the anniversary of the earlier date on which benefit in respect of those mortgage interest costs became payable;
- (b) in the case of state pension credit, the relevant anniversary date determined in accordance with paragraph 7 of Schedule II to the State Pension Credit Regulations.◄

(24) 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 (reduced payments under section 17 of the Jobseekers Act) applied in his case; and
- (b) the decision made in consequence of sub-paragraph (a) falls to be superseded by a decision under section 10 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 decision under section 10 shall take effect as from the same date as the decision made in consequence of sub-paragraph (a) has effect.

<sup>4</sup>Para. (25) substituted by reg. 15(5) of S.I. 2003/1886 as from 12.4.04.

►<sup>4</sup>(25) In a case where a decision ("the first decision") has been made that a person failed without good cause to take part in a work-focused interview the decision under section 10 shall take effect as from—

- (a) the first day of the benefit week to commence for that person following the date of the first decision; or
- (b) in a case where a partner has failed without good cause to take part in a work-focused interview ►<sup>5</sup>in accordance with regulations made under section 2AA of the Administration Act<sup>(a)</sup>◄—
  - (i) the first day of the benefit week to commence for the claimant ►<sup>5</sup>(meaning the person who has been awarded a benefit within section 2AA(2) of the Administration Act at a higher rate referable to that partner)◄ following the date of the first decision; or
  - (ii) if that date arises five days or less after the day on which the first decision was made, as from the first day of the second benefit week to commence for the claimant following the date of the first decision.◄

<sup>5</sup>Words substituted in reg. 7(25)(b) & (b)(i) by reg. 24(4) of S.I. 2004/959 as from 26.4.04.

<sup>6</sup>Para (26) inserted in reg. 7 by Sch. 6, para. 5 of S.I. 2000/897 as from 3.4.00.

<sup>7</sup>Para. (27) omitted by reg. 4(5) of S.I. 2010/424. See reg. 1(2) *ibid* for relevant commencement date.

►<sup>6</sup>(26) In paragraph (25), "benefit week" means any period of 7 days corresponding to the week in respect of which the relevant social security benefit is due to be paid.◄

(27) ►<sup>7</sup>◄

(a) 1992 c. 5. Section 2AA was inserted by Section 49 of the Employment Act 2002 (c. 22).

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►<sup>1</sup>(28) A decision to which regulation 6(2)(j) or (k) applies shall take effect from the first day of the disqualification period prescribed for the purposes of section ►<sup>2</sup>6B or ◀ 7 of the Social Security Fraud Act 2001(a). ◀

<sup>1</sup>Para. (28) of reg. 7 inserted by reg. 8(c) of S.I. 2002/490 as from 1.4.02.

►<sup>3</sup>(29) ►<sup>4</sup>Subject to paragraphs (29A) and (29B), a ◀ decision to which regulation 6(2)(1) (state pension credit) refers shall take effect from the day following the day on which the assessed income period ends if that day is the first day of the claimant's benefit week, but if it is not, from the next following such day. ◀

<sup>2</sup>Words inserted in reg. 7(28) by reg. 3(4) of S.I. 2010/1160 as from 1.4.10.

►<sup>4</sup>(29A) A decision to which regulation 6(2)(1) applies, where—

<sup>3</sup>Para. (29) inserted in reg. 7 by reg. 18(f) of S.I. 2002/3019 as from 7.4.03.

- (a) the decision is advantageous to the claimant; and
- (b) the information and evidence required under regulation 32(1) of the Claims and Payments Regulations has not been provided within the period allowed under that regulation,

<sup>4</sup>Words in para. (29) & paras. (29A)-(29C) inserted in reg. 7 by reg. 5(3) of S.I. 2003/2274 as from 6.10.03.

shall take effect from the day the information and evidence required under that regulation is provided if that day is the first day of the claimant's benefit week, but, if it is not, from the next following such day.

(29B) A decision to which regulation 6(2)(1) applies, where—

- (a) the decision is disadvantageous to the claimant; and
- (b) the information and evidence required under regulation 32(1) of the Claims and Payments Regulations has not been provided within the period allowed under that regulation,

shall take effect from the day after the period allowed under that regulation expired.

(29C) Except where there is a change of circumstances during the period in which the Secretary of State was prevented from specifying a new assessed income period under regulation 10(1) of the State Pension Credit Regulations, a decision to which regulation 6(2)(m) applies shall take effect from the day on which the information and evidence required under regulation 32(6)(a) of the Claims and Payments Regulations was provided. ◀

►<sup>5</sup>(30) Where a decision is superseded in accordance with regulation 6(2)(a)(i) and the relevant circumstances are that there has been a change in the legislation in relation to a relevant benefit, the decision under section 10 shall take effect from the date on which that change in the legislation had effect.

<sup>5</sup>Paras. (30)-(33) inserted in reg. 7 by reg. 3(5)(e) of S.I. 2003/1050 as from 5.5.03.

(31) Where a decision is superseded in accordance with regulation 6(2)(a)(ii) and the relevant circumstances are that—

- (a) a personal capability assessment has been carried out in the case of a person to whom section 171C(4) of the Contributions and Benefits Act(b) applies; and
- (b) the own occupation test remains applicable to him under section 171B(3) of that Act(c),

the decision under section 10 shall take effect on the day ►<sup>6</sup>◀ on which the own occupation test is no longer applicable to that person.

<sup>6</sup>Words omitted in reg. 7(31) by reg. 3(4)(g) of S.I. 2008/2667 as from 30.10.08.

(32) For the purposes of paragraph (31)—

- (a) "personal capability assessment" has the same meaning as in regulation 24 of the Social Security (Incapacity for Work) (General) Regulations 1995(d);
- (b) "own occupation test" has the same meaning as in section 171B(2) of the Contributions and Benefits Act.

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(a) The beginning of the disqualification period for the purposes of section 7 is prescribed in regulation 2 of the Social Security (Loss of Benefit) Regulations 2001 (S.I. 2001/4022).  
(b) 1992 c. 4. Section 171C was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 5 and substituted by the Welfare Reform and Pensions Act 1999 (c. 30), section 16.  
(c) Section 171B was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 5.  
(d) S.I. 1995/311, the relevant amending instrument is S.I. 1999/3109.

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<sup>1</sup>Words in reg. 7(33) substituted by para. 104(b) of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

<sup>2</sup>Para. (34) inserted in reg. 7 by reg. 2(5)(d) of S.I. 2005/337 as from 18.3.05.

<sup>3</sup>Regs. 7(35)-(39) inserted by reg. 33(9) of S.I. 2008/1554 as from 27.10.08.

<sup>4</sup>Reg. 7(38) substituted, para. (40) added & words inserted in reg. 7A(1) by reg. 7(4)(a)-(b) & (5) of S.I. 2010/840 as from 28.6.10.

<sup>5</sup>Words in reg. 7(38) substituted by S.I. 2015/339 as from 30.3.15.

<sup>6</sup>Reg. 7(41) & (42) inserted by reg. 12(5) of S.I. 2014/1907 as from 28.4.14.

<sup>7</sup>Reg. 7A inserted by reg. 5 of S.I. 1999/1623 as from 5.7.99.

<sup>8</sup>Heading to reg. 7A substituted by reg. 34(2) of S.I. 2008/1554 as from 27.10.08.

<sup>9</sup>Words in para. (1) of reg. 7A substituted by reg. 18(a) of S.I. 2000/1596 as from 19.6.00.

(33) A decision to which regulation 6(2)(c)(ii) applies shall take effect from the date on which the ►<sup>1</sup>First-tier Tribunal or the Upper Tribunal’s◄ decision would have taken effect had it been decided in accordance with the determination of the ►<sup>1</sup>Upper Tribunal◄ or the court in the appeal referred to in section 26(1)(b).◄

►<sup>2</sup>(34) A decision which supersedes a decision specified in regulation 6(2)(n) shall take effect from the effective date of the Secretary of State’s decision to terminate income support which was confirmed by the decision specified in regulation 6(2)(n).◄

►<sup>3</sup>(35) A decision made in accordance with regulation 6(2)(p), where the failure determination was made before the 13th week of entitlement, shall take effect from the first day of the benefit week following that week.

(36) A decision made in accordance with regulation 6(2)(p) where paragraph (35) does not apply shall take effect from the first day of the benefit week in which the failure determination was made.

(37) A decision made in accordance with regulation 6(2)(q) shall take effect from the first day of the benefit week in which the reduction mentioned in that sub-paragraph ceased to have effect.

►<sup>4</sup>(38) A decision made in accordance with regulation 6(2)(r) that embodies a determination that the claimant has—

- (a) limited capability for work; or
- (b) limited capability for work-related activity; or
- (c) limited capability for work and limited capability for work-related activity

which is the first such determination shall take effect from ►<sup>5</sup>the day after the last day of the relevant period as defined in regulation 4(4) of the Employment and Support Allowance Regulations.◄◄

(39) A decision made in accordance with regulation 6(2)(r), following an application by the claimant, that embodies a determination that the claimant has limited capability for work-related activity shall take effect from the date of the application.◄

►<sup>4</sup>(40) A decision made in accordance with regulation 6(2)(r) that embodies a determination that the claimant has—

- (a) limited capability for work; or
- (b) limited capability for work-related activity; or
- (c) limited capability for work and limited capability for work-related activity

where regulation 5 of the Employment and Support Allowance Regulations (assessment phase - previous claimants) applies shall take effect from the beginning of the 14th week of the person’s continuous period of limited capability for work.◄

►<sup>6</sup>(41) A decision made in accordance with regulation 6(2)(t) shall take effect from the first day of the next benefit week following the day on which the determination mentioned in that sub-paragraph was made.

(42) A decision made in accordance with regulation 6(2)(u) shall take effect from the first day of the benefit week in which the reduction mentioned in that sub-paragraph ceased to have effect.◄

►<sup>7</sup>►<sup>8</sup>**Definitions for the purposes of Chapters I and II**◄

**7A.**—(1) For the purposes of regulations 3(5)(c), 6(2)(g) ►<sup>4</sup>6(2)(r)◄►<sup>9</sup>, 7(2)(c) and (5)◄—

“disability benefit decision” means a decision to award a relevant benefit embodied in or necessary to which is a disability determination,

“disability determination” means—

- (a) in the case of a decision as to an award of an attendance allowance or a disability living allowance, whether the person satisfies any of the conditions in section 64, 72(1) or 73(1) to (3), as the case may be, of the Contributions and Benefits Act,
- (b) in the case of a decision as to an award of severe disablement allowance, whether the person is disabled for the purpose of section 68 of the Contributions and Benefits Act, or
- (c) in the case of a decision as to an award of industrial injuries benefit, whether the existence or extent of any disablement is sufficient for the purposes of section 103 or 108 of the Contributions and Benefits Act or for the benefit to be paid at the rate which was in payment immediately prior to that decision;

►<sup>1</sup>“employment and support allowance decision” means a decision to award a relevant benefit or relevant credit embodied in or necessary to which is a determination that a person has or is to be treated as having limited capability for work under Part 1 of the Welfare Reform Act; ◀

“incapacity benefit decision” means a decision to award a relevant benefit ►<sup>2</sup>or relevant credit ◀ embodied in or necessary to which is a determination that a person is or is to be treated as incapable of work under Part XIIA of the Contributions and Benefits Act, ►<sup>3</sup>or an award of long term incapacity benefit under regulation 17(1) (transitional awards of long-term incapacity benefit) of the Social Security (Incapacity Benefit) (Transitional Regulations 1995)(a) ◀

“incapacity determination” means a determination whether a person is incapable of work by applying the ►<sup>2</sup>personal capability assessment ◀ in regulation 24 of the Social Security (Incapacity for Work) (General) Regulations 1995 or whether a person is to be treated as incapable of work in accordance with regulation 10 (certain persons with a severe condition to be treated as incapable of work) or 27 (exceptional circumstances) of those Regulations, and

►<sup>1</sup>“limited capability for work determination” means a determination whether a person has limited capability for work by applying the test of limited capability for work or whether a person is to be treated as having limited capability for work in accordance with regulation 20 of the Employment and Support allowance Regulations.; ◀

“payee” means a person to whom a benefit referred to in paragraph (a), (b) or (c) of the definition of “disability determination”, or a benefit referred to in the definition of “incapacity benefit decision” ►<sup>1</sup>or “employment and support allowance decision” ◀ is payable.

(2) Where a person’s receipt of or entitlement to a benefit (“the first benefit”) is a condition of his being entitled to any other benefit, allowance or advantage (“a second benefit”) and a decision is revised under regulation 3(5)(c) or a superseding decision is made under regulation 6(2) to which regulation 7(2)(c)(ii) applies, the effect of which is that the first benefit ceases to be payable, or becomes payable at a lower rate than was in payment immediately prior to that revision or supersession, a consequent decision as to his entitlement to the second benefit shall take effect from the date of the change in his entitlement to the first benefit. ◀

**7B. & 7C. ►<sup>4</sup>◀**

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, Regs. 7B & 7C is reproduced below.*

►<sup>5</sup>Effective date of a supersession decision

7B. Schedule 3D provides for cases and circumstances in which a supersession decision takes effect from a date other than the date specified in section 17(4) of the Child Support Act. ◀

Procedure where the Secretary of State proposes to supersede a decision under section 17 of the Child Support Act on his own initiative

7C. Where the ►<sup>6</sup>Commission ◀ on ►<sup>6</sup>its ◀ own initiative proposes to make a decision superseding a decision ►<sup>6</sup>it ◀ shall notify the relevant persons who could be materially affected by the decision of that intention.

<sup>1</sup>Defn. of “ESA decision” & “limited capability for work determination” inserted and words added to defn. of “payee” by regs. 34(2), (3) & (3)(a) of S.I. 2008/1554 as from 27.10.08.

<sup>2</sup>Words inserted & substituted in defns. of “incapacity benefit decisions” & “incapacity determination” by reg. 18(a), (b) & (c) of S.I. 2000/1596 as from 19.6.00.

<sup>3</sup>Words added to defn. of “incapacity benefit decision” by reg. 3(8) of S.I. 2007/2470 as from 27.9.07.

<sup>4</sup>Regs. 7B and 7C omitted by reg. 6(3) of S.I. 2012/2785 as from 10.12.12.

<sup>5</sup>Reg. 7B substituted by reg. 4(6) of S.I. 2009/396 as from 6.4.09.

<sup>6</sup>Words in 7C “Commission”, “its” and “it” substituted by reg. 4(7) of S.I. 2009/396 as from 6.4.09.

(a) S.I. 1995/310.



## Reg. 8

**Effective date for late notifications of change of circumstances**

<sup>1</sup>Words inserted in reg. 8(1) by reg. 3(a) of S.I. 2000/119 as from 17.2.00.

8.—(1) For the purposes of regulation 7(2) <sup>1</sup> and (9) <sup>4</sup>, a longer period of time may be allowed for the notification of a change of circumstances in so far as it affects the effective date of the change where the conditions specified in the following provisions of this regulation are satisfied.

<sup>2</sup>Words inserted in reg. 8(2) & (5) by reg. 3(a) & (b) of S.I. 2000/119 as from 17.2.00.

(2) An application for the purposes of regulation 7(2) <sup>2</sup> or (9) <sup>4</sup> shall be made by the claimant or a person acting on his behalf.

(3) The application referred to in paragraph (2) shall—

- (a) contain particulars of the relevant change of circumstances and the reasons for the failure to notify the change of circumstances on an earlier date; and
- (b) be made within 13 months of the date the change occurred.

(4) An application under this regulation shall not be granted unless the Secretary of State is satisfied <sup>3</sup> or the Board are satisfied <sup>4</sup> that—

- (a) it is reasonable to grant the application;
- (b) the change of circumstances notified by the applicant is relevant to the decision which is to be superseded; and
- (c) special circumstances are relevant to the application and as a result of those special circumstances it was not practicable for the applicant to notify the change of circumstances within one month of the change occurring.

<sup>3</sup>Words in square brackets inserted in reg. 8(4) and (5) for tax credits purposes only by reg. 11 of S.I. 1999/2570 as from 5.10.99.

(5) In determining whether it is reasonable to grant the application, the Secretary of State <sup>3</sup> or the Board <sup>4</sup> shall have regard to the principle that the greater the amount of time that has elapsed between the date one month after the change of circumstances occurred and the date the application for the purposes of regulation 7(2) <sup>2</sup> or (9) <sup>4</sup> is made, the more compelling should be the special circumstances on which the application is based.

(6) In determining whether it is reasonable to grant an application, no account shall be taken of the following—

- (a) that the applicant or any person acting for him was unaware of, or misunderstood, the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by these Regulations); or
- (b) that <sup>4</sup> the Upper Tribunal <sup>4</sup> or a court has taken a different view of the law from that previously understood and applied.

<sup>4</sup>Words in reg. 8(6)(b) substituted by art. 106 of S.I. 2008/2683 as from 3.11.08.

(7) An application under this regulation which has been refused may not be renewed.

CHAPTER III  
OTHER MATTERS

**Certificates of recoverable benefits**

9. A certificate of recoverable benefits may be reviewed under section 10 of the 1997 Act(a) where the Secretary of State is satisfied that—

- (a) a mistake (whether in computation of the amount specified or otherwise) occurred in the preparation of the certificate;
- (b) the benefit recovered from a person who makes a compensation payment (as defined in section 1 of the 1997 Act) is in excess of the amount due to the Secretary of State;
- (c) incorrect or insufficient information was supplied to the Secretary of State by the person who applied for the certificate and in consequence the amount of benefit specified in the certificate was less than it would have been had the information supplied been correct or sufficient; or
- (d) a ground for appeal is satisfied under section 11 of the 1997 Act(b).

►<sup>1</sup>**Review of certificates**

9ZA.—(1) A certificate may be reviewed under section 10 of the 1997 Act where the Secretary of State is satisfied that—

- (a) a mistake (whether in the computation of the amount specified or otherwise) occurred in the preparation of the certificate;
- (b) the lump sum payment recovered from a compensator who makes a compensation payment (as defined in section 1A(5) of the 1997 Act) is in excess of the amount due to the Secretary of State;
- (c) incorrect or insufficient information was supplied to the Secretary of State by the compensator who applied for the certificate and in consequence the amount of lump sum payment specified in the certificate was less than it would have been had the information supplied been correct or sufficient;
- (d) a ground for appeal is satisfied under section 11 of the 1997 Act or an appeal has been made under that section; or
- (e) a certificate has been issued and, for any reason, a recoverable lump sum payment was not included in that certificate.

(2) In this regulation and regulations 1(3) in paragraph (b) of the definition of “party to the proceedings”, 29, 31, 33, 36(2)(a)(ii) and 58(1), where applicable—

- (a) any reference to the 1997 Act is to be construed so as to include a reference to that Act as applied by regulation 2 of the Lump Sum Payments Regulations and, where applicable, as modified by Schedule 1 to those Regulations;
- (b) ►<sup>2</sup>“certificate” means a certificate of recoverable lump sum payments, including where any of the amounts is nil;◄
- (c) “lump sum payment” is a payment to which section 1A(2) of the 1997 Act applies;
- (d) “P” is to be construed in accordance with regulations 4(1)(a)(i) and 5 of the Lump Sum Payments Regulations.◄

►<sup>3</sup>**Consideration of review before appeal**

9ZB.—(1) This regulation applies in a case where—

- (a) the Secretary of State has issued a certificate of recoverable benefits or certificate of recoverable lump sum payments; and

<sup>1</sup>Reg. 9ZA inserted by para. 1(b) of Sch. 2 to S.I. 2008/1596 as from 1.10.08.

<sup>2</sup>Reg. 9ZA(2)(b) substituted by reg. 6(4) of S.I. 2008/2365 as from 1.10.08.

<sup>3</sup>Reg. 9ZB inserted by reg. 4(6) of S.I. 2013/2380 as from 28.10.13.

(a) Section 10 was amended by paragraph 149 of Schedule 7 to the Social Security Act 1998.

(b) Section 11 was amended by paragraph 150 of Schedule 7 to the Social Security Act 1998.

- (b) that certificate is accompanied by a notice to the effect that there is a right of appeal in relation to the certificate only if the Secretary of State has considered an application for review of the certificate.

(2) In a case to which this regulation applies, a person has a right of appeal under section 11 of the 1997 Act against the certificate only if the Secretary of State has considered an application for review of the certificate under section 10 of that Act.◀

<sup>1</sup>Reg. 9A inserted by reg. 4 of S.I. 2002/1379 as from 20.5.02.

►<sup>1</sup>**Correction of accidental errors**

**9A.**—(1) Accidental errors in a decision of the Secretary of State or an officer of the Board under a relevant enactment within the meaning of section 28(3), or in any record of such a decision, may be corrected by the Secretary of State or an officer of the Board, as the case may be, at any time.

(2) A correction made to, or to the record of, a decision shall be deemed to be part of the decision, or of that record, and the Secretary of State or an officer of the Board shall give a written notice of the correction as soon as practicable to the claimant.

(3) In calculating the time within which an application can be made under regulation 3(1)(b) for a decision to be revised ►<sup>2</sup>◀ there shall be disregarded any day falling before the day on which notice was given of a correction of the decision or to the record thereof under paragraph (2).◀

<sup>2</sup>Words omitted in reg. 9A(3) by art. 108 of S.I. 2008/2683 as from 3.11.08.

*\*See reg. 6(1)(3) of S.I. 2015/338 for details of modifications for when this reg. applies in certain situations.*

<sup>3</sup>Reg. 9B inserted for specified circumstances by reg. 6(3) of S.I. 2015/338 as from 23.3.15 (See reg. 6(1) for when to apply.

►<sup>3</sup>**Correction of accidental errors in Child Support Decisions**

**9B.**—(1) An accidental errors in a decision of the Secretary of State made under the Child Support Act 1991, or in any record of such a decision, may be corrected by the Secretary of State at any time.

(2) Such a correction is to be treated as part of that decision or of that record.

(3) The Secretary of State must give written notice of the correction as soon as practicable to the persons to whom notice of the decision was required to be given.

(4) In calculating the time within when an application may be made under regulation 3A(1)(a) (revision of child support decisions) for a decision to be revised, no account is to be taken of any day falling before the day on which notice of any correction was given.◀

<sup>4</sup>Reg. 10 substituted by reg. 36 of S.I. 2008/1554 as from 27.10.08.

►<sup>4</sup>**Effect of determination as to capacity or capability for work**

**10.**—(1) This regulation applies to a determination whether a person—

- (a) is capable or incapable of work;  
(b) is to be treated as capable or incapable of work;



- (c) has or does not have limited capability for work; or
- (d) is to be treated as having or not having limited capability for work.

(2) A determination (including a determination made following a change of circumstances) as set out in paragraph (1) which is embodied in or necessary to a decision under Chapter II of Part I of the Act or on which such a decision is based shall be conclusive for the purposes of any further decision.◀

#### Secretary of State to determine certain matters

**11.** Where, in relation to a determination for any purpose to which Part XIII A of the Contributions and Benefits Act ▶<sup>1</sup>or Part 1 of the Welfare Reform Act◀ applies, an issue arises as to—

- (a) whether a person is, or is to be treated as, capable or incapable of work in respect of any period; or
- ▶<sup>1</sup>(aa) whether a person is, or is to be treated as, having or not having limited capability for work; or◀
- (b) whether a person is terminally ill,

<sup>1</sup>Words and sub-para. (aa) added to reg. 11 by reg. 37(a) & (b) of S.I. 2008/1554 as from 27.10.08.

that issue shall be determined by the Secretary of State, notwithstanding that other matters fall to be determined by another authority.

#### ▶<sup>2</sup>Issues for decision by officers of Inland Revenue

**11A.**—(1) Where, on consideration of any claim or other matter, it appears to the Secretary of State that an issue arises which, by virtue of section 8 of the Transfer Act, falls to be decided by an officer of the Board, he shall refer that issue to the Board.

<sup>2</sup>Reg. 11A inserted by reg. 2(3) of S.I. 1999/1670 as from 5.7.99.

(2) Where—

- (a) the Secretary of State has decided any claim or other matter on an assumption of facts—
  - (i) as to which there appeared to him to be no dispute, but
  - (ii) concerning which, had an issue arisen, that issue would have fallen, by virtue of section 8 of the Transfer Act, to be decided by an officer of the Board; and
- (b) an application for revision or an application for supersession ▶<sup>3</sup>or an appeal◀ is made in relation to the decision of that claim or other matter; and
- (c) it appears to the Secretary of State on ▶<sup>3</sup>receipt of the application or appeal◀ that such an issue arises,

<sup>3</sup>Words in 11A(2)(b) inserted & words in 11A(2)(c) substituted by regs. 4 & 5 of S.I. 2002/1379 as from 20.5.02.

he shall refer that issue to the Board.

(3) Pending the final decision of any issue which has been referred to the Board in accordance with paragraph (1) or (2) above, the Secretary of State may—

- (a) determine any other issue arising on consideration of the claim or other matter or, as the case may be, of the application,
- (b) seek a preliminary opinion of the Board on the issue referred and decide the claim or other matter or, as the case may be, the application in accordance with that opinion on that issue; or
- (c) defer making any decision on the claim or other matter or, as the case may be, the application.

(4) On receipt by the Secretary of State of the final decision of an issue which has been referred to the Board in accordance with paragraph (1) or (2) above, the Secretary of State shall—

- (a) in a case to which paragraph (3)(b) above applies—
  - (i) consider whether the decision ought to be revised under section 9 or superseded under section 10, and

- (ii) if so, revise it, or, as the case may be, make a further decision which supersedes it; or
- (b) in a case to which paragraph (3)(a) or (c) above applies, decide the claim or other matter or, as the case may be, the application,

in accordance with the final decision of the issue so referred.

(5) In paragraphs (3) and (4) above “final decision” means the decision of an officer of the Board under section 8 of the Transfer Act or the determination of any appeal in relation to that decision.◀

### Decision of the Secretary of State relating to industrial injuries benefit

**12.—**(1) This regulation applies where, for the purpose of a decision of the Secretary of State relating to a claim for industrial injuries benefit under Part V of the Contributions and Benefits Act an issue to be decided is—

- (a) the extent of a personal injury for the purposes of section 94 of that Act;
- (b) whether the claimant has a disease prescribed for the purposes of section 108 of that Act or the extent of any disablement resulting from such a disease; or
- (c) whether the claimant has a disablement for the purposes of section 103 of that Act or the extent of any such disablement.

(2) In connection with making a decision to which this regulation applies, the Secretary of State may refer an issue, together with any relevant evidence or information available to him, including any evidence or information provided by or on behalf of the claimant, to a medical practitioner who has experience in such of the issues specified in paragraph (1) as are relevant to the decision, for such report as appears to the Secretary of State to be necessary for the purpose of providing him with information for use in making the decision.

(3) In making a decision to which this regulation applies, the Secretary of State shall have regard to (among other factors)—

- (a) all relevant medical reports provided to him in connection with that decision; and
- (b) the experience, in such of the issues specified in paragraph (1) as are relevant to the decision, of any medical practitioner who has provided a report, including a medical practitioner who has provided a report following an examination required by the Secretary of State under section 19.

<sup>1</sup>Reg. 12A inserted by reg. 19 of S.I. 2000/1596 as from 19.6.00.

### ►<sup>1</sup>Recrudescence of a prescribed disease

**12A.—**(1) This regulation applies to a decision made under sections 108 to 110 of the Contributions and Benefits Act where a disease is subsequently treated as a recrudescence under regulation 7 of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985(a).

(2) Where this regulation applies Chapter II of Part I of the Act shall apply as if section 8(2) did not apply.◀

### Income support and social fund determinations on incomplete evidence

**13.—**(1) Where, for the purpose of a decision under section 8 or 10—

- <sup>2</sup>(a) a determination falls to be made by the Secretary of State as to what housing costs are to be included in—
  - (i) a claimant’s applicable amount by virtue of regulation 17(1)(e) or 18(1)(f) of, and Schedule 3 to, the Income Support Regulations; ►<sup>3</sup>◀
  - (ii) a claimant’s appropriate minimum guarantee by virtue of regulation 6(6)(c) and Schedule II to the State Pension Credit Regulations; ►<sup>3</sup>or

<sup>2</sup>Words substituted in reg. 13(1) by reg. 19(a) & (b) of S.I. 2002/3019 as from 7.4.03.

<sup>3</sup>Words omitted in reg. 13(1)(a)(i) and para. (iii) added to (1)(a) by reg. 38(a) & (b) of S.I. 2008/1554 as from 27.10.08.

(a) S.I. 1985/967.

- (iii) a claimant's applicable amount under regulation 67(1)(c) or 68(1)(d) of the Employment and Support Allowance Regulations; and◀
- (b) it appears to the Secretary of State that he is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

he shall make the determination on the assumption that the housing costs to be included in the claimant's ▶<sup>1</sup>applicable amount or, as the case may be, appropriate minimum guarantee are those◀ that can be immediately determined.

<sup>1</sup>Words substituted in reg. 13(1) & 13(3) inserted by reg. 19(a) & (b) of S.I. 2002/3019 as from 7.4.03.

- (2) Where, for the purpose of a decision under section 8 or 10–
  - (a) a determination falls to be made by the Secretary of State as to whether–
    - (i) 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);
    - (ii) for the purposes of regulation 12 of the Income Support Regulations, a person is by virtue of that regulation to be treated as receiving relevant education; ▶<sup>2</sup>◀
    - (iii) in relation to any claimant, the applicable amount includes severe disability premium by virtue of regulation 17(1)(d) or 18(1)(e), and paragraph 13 of Schedule 2 to, the Income Support Regulations; ▶<sup>2</sup>or
    - (iv) in relation to any claimant, the applicable amount includes the severe disability premium by virtue of regulation 67(1) or 68(1) of, and paragraph 6 of Schedule 4 to, the Employment and Support allowance Regulations;◀
  - (b) it appears to the Secretary of State that he is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

<sup>2</sup>Words omitted in reg. (2)(a)(ii) and para. (iv) inserted in (2) by reg. 38(a) & (b) of S.I. 2008/1554 as from 27.10.08.

he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.

- ▶<sup>1</sup>(3) Where, for the purposes of a decision under section 8 or 10–
  - (a) a determination falls to be made by the Secretary of State as to whether a claimant's appropriate minimum guarantee includes an additional amount in accordance with regulation 6(4) of, and paragraph 1 of Schedule I to, the State Pension Credit Regulations; and
  - (b) it appears to the Secretary of State that he is not in possession of all the evidence or information which is relevant for the purpose of such a determination,

he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.◀

▶<sup>3</sup>**Retirement pension after period of deferment**

- 13A.**—(1) This regulation applies where–
- (a) a person claims a Category A or Category B retirement pension, shared additional pension or, as the case may be, graduated retirement benefit;
  - (b) an election is required by, as the case may be–
    - (i) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act (pension increase or lump sum where entitlement to retirement pension is deferred);
    - (ii) paragraph 1 of Schedule 5A to that Act (pension increase or lump sum where entitlement to shared additional pension is deferred); or, as the case may be,

<sup>3</sup>Reg. 13A inserted by reg. 9(6) of S.I. 2005/2677 as from 6.4.06.

(iii) paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations (further provisions replacing section 36(4) of the National Insurance Act 1965: increases of graduated retirement benefit and lump sums); and

(c) no election is made when the claim is made.

(2) In the circumstances specified in paragraph (1) the Secretary of State may decide the claim before any election is made, or is treated as made, for an increase or lump sum.

(3) When an election is made, or is treated as made, the Secretary of State shall revise the decision which he made in pursuance of paragraph (2).◀

**Effect of alteration in the component rates of income support and jobseeker's allowance**

**14.**—(1) Section 159 of the Administration Act (effect of alteration in the component rates of income support) shall not apply to any award of income support in force in favour of a person where there is applicable to that person—

- (a) any amount determined in accordance with regulation 17(2) to (7) of the Income Support Regulations; or
- (b) any protected sum determined in accordance with Schedule 3A or 3B of those Regulations<sup>(a)</sup>; or
- (c) any transitional addition, personal expenses addition or special transitional addition applicable under Part II of the Income Support (Transitional) Regulations 1987<sup>(b)</sup> (transitional protection).

(2) Where section 159 of the Administration Act does not apply to an award of income support by virtue of paragraph (1), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made by an order under section 150 of the Administration Act.

(3) Section 159A of the Administration Act<sup>(c)</sup> (effect of alterations in the component rates of jobseeker's allowance) shall not apply to any award of a jobseeker's 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 a jobseeker's allowance by virtue of paragraph (3), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made by an order under section 150 of the Administration Act.

▶<sup>1</sup>(5) Section 159B of the Administration Act<sup>(d)</sup> (effect of alterations affecting state pension credit) shall not apply to any award of state pension credit in favour of a person where in relation to that person the appropriate minimum guarantee includes an amount determined under paragraph 6 of Part II of Schedule I to the State Pension Credit Regulations.

(6) Where section 159B of the Administration Act does not apply to an award of state pension credit by virtue of paragraph (5), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made to an award under section 150 of the Administration Act.◀

**▶<sup>2</sup>Termination of award of income support ▶<sup>3</sup>, jobseeker's allowance or employment and support allowance◀**

**14A.**—(1) This regulation applies in a case where an award of income support ▶<sup>3</sup>, a jobseeker's allowance or an employment and support allowance◀ (“the existing

- 
- (a) Schedule 3A was inserted by S.I. 1988/1445; Schedule 3B was inserted by S.I. 1989/534.
  - (b) S.I. 1987/1969.
  - (c) Section 159A was inserted by section 24 of the Jobseekers Act 1995 (c. 18).
  - (d) Section 159B was inserted by State Pension Credit Act 2002 (c. 16), section 14 and Schedule 2, paragraph 17.

<sup>1</sup>Paras. (5) & (6) inserted in reg. 14 by reg. 20 of S.I. 2002/3019 as from 7.4.03.

<sup>2</sup>Reg. 14A inserted by reg. 6 of S.I. 2002/1379 as from 20.5.02.

<sup>3</sup>Words in heading to and para. (1) of reg. 14A substituted by reg. 39(2) of S.I. 2008/1554 as from 27.10.08.

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 ►<sup>1</sup>an employment and support allowance,◀ a 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.

<sup>1</sup>Words in para. (1) of reg. 14A inserted and para. (5) added by reg. 39(4) of S.I. 2008/1554 as from 27.10.08.

(2) In a case to which this regulation applies, if a claim for the alternative benefit is made the Secretary of State 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), the Secretary of State 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 an award of the alternative benefit takes effect.

(4) Where an award of a 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.◀

►<sup>1</sup>(5) Where an award of an employment and support allowance is made in accordance with the provisions of this regulation, paragraph 2 of Schedule 2 to the Welfare Reform Act (waiting days) shall not apply.◀

### Jobseeker’s allowance determinations on incomplete evidence

15. Where, for the purpose of a decision under section 8 or 10—

- (a) a determination falls to be made by the Secretary of State as to whether—
  - (i) 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); or
  - (ii) 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; and
- (b) it appears to the Secretary of State that he is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.

15A. ►<sup>2</sup>◀

15B. ►<sup>2</sup>◀

15C. ►<sup>2</sup>◀

<sup>2</sup>Regs. 15A, 15B and 15C omitted by reg. 6(3) of S.I. 2012/2785 as from 10.12.12.

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, Regs. 15A, 15B & 15C are reproduced below.*

►<sup>3</sup>Provision of information

15A.—(1) Where the ►<sup>4</sup>Commission◀ has received an application under section 16 or 17 of the Child Support Act in connection with a previously determined variation which has effect on the maintenance calculation in force, ►<sup>4</sup>it◀ may request further information or evidence from the applicant to enable a decision on that application to be made and any such information or evidence shall be provided within one month of the date of notification of the request, or such longer period as the ►<sup>4</sup>Commission◀ is satisfied is reasonable in the circumstances of the case.

<sup>3</sup>Regs. 15A, 15B, 15C and 15D inserted by reg. 10 of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

<sup>4</sup>Words in reg. 15A substituted by reg. 4(8) of S.I. 2009/396 as from 6.4.09.

(2) Where any information or evidence requested in accordance with paragraph (1) is not provided within the time limit specified in that paragraph, the Secretary of State may, where he is able to do so, proceed to make the decision in the absence of that information or evidence.



## Reg. 15B

Procedure in relation to an application made under section 16 or 17 of the Child Support Act in connection with a previously determined variation

<sup>1</sup>Words in reg. 15B substituted by reg. 4(9) of S.I. 2009/396 as from 6.4.09.

15B.—(1) Subject to paragraph (3), where the <sup>1</sup>Commission<sup>1</sup> has received an application under section 16 or 17 of the Child Support Act in connection with a previously determined variation which has effect on the maintenance calculation in force, <sup>1</sup>it<sup>1</sup>—

- (a) shall give notice of the application to the relevant persons, other than the applicant, informing them of the grounds on which the application has been made and any relevant information or evidence the applicant has given, except information or evidence falling within paragraph (2);
  - (b) may invite representations, which need not be in writing but shall be in writing if in any case <sup>1</sup>it<sup>1</sup> so directs, from the relevant persons other than the applicant on any matter relating to that application, to be submitted to the <sup>1</sup>Commission<sup>1</sup> within 14 days of notification or such longer period as the <sup>1</sup>Commission<sup>1</sup> is satisfied is reasonable in the circumstances of the case; and
  - (c) shall set out the provisions of paragraphs (2)(b) and (c), (4) and (5) in relation to such representations.
- (2) The information or evidence referred to in paragraphs (1)(a), (4)(a) and (7), is—
- (a) details of the nature of the long-term illness or disability of the relevant other child which forms the basis of a variation application on the ground in regulation 11 of the Variations Regulations (special expenses - illness or disability of relevant other child) where the applicant requests they should not be disclosed and the <sup>1</sup>Commission<sup>1</sup> is satisfied that disclosure is not necessary in order to be able to determine the application;
  - (b) medical evidence or medical advice which has not been disclosed to the applicant or a relevant person and which the <sup>1</sup>Commission<sup>1</sup> considers would be harmful to the health of the applicant or that relevant person if disclosed to him;
  - (c) the address of a relevant person or qualifying child, or any other information which could reasonably be expected to lead to that person or child being located, where the <sup>1</sup>Commission<sup>1</sup> considers that there would be a risk of harm or undue distress to that person or that child or any other children living with that person if the address or information were disclosed.
- (3) The <sup>1</sup>Commission<sup>1</sup> need not act in accordance with paragraph (1) if—
- (a) <sup>1</sup>it<sup>1</sup> is satisfied on the information or evidence available to him, that <sup>1</sup>it<sup>1</sup> will not agree to a variation of the maintenance calculation in force, but if, on further consideration <sup>1</sup>it<sup>1</sup> is minded to do so he shall, before doing so, comply with the provisions of this regulation; and
  - (b) were the application to succeed, the decision as revised or superseded would be less advantageous to the applicant than the decision before it was so revised or superseded.
- (4) Where the <sup>1</sup>Commission<sup>1</sup> receives representations from the relevant persons he—
- (a) may, if <sup>1</sup>it<sup>1</sup> considers it reasonable to do so, send a copy of the representations concerned (excluding material falling within paragraph (2) above) to the applicant and invite any comments <sup>1</sup>it<sup>1</sup> may have within 14 days or such longer period as the <sup>1</sup>Commission<sup>1</sup> is satisfied is reasonable in the circumstances of the case; and
  - (b) where the Secretary of State acts under sub-paragraph (a), shall not proceed to make a decision in response to the application until <sup>1</sup>it<sup>1</sup> has received such comments or the period referred to in sub-paragraph (a) has expired.

(5) Where the Commission has not received representations from the relevant persons notified in accordance with paragraph (1) within the time limit specified in sub-paragraph (b) of that paragraph, it may proceed to make a decision under section 16 or 17 of the Child Support Act in response to the application, in their absence.

(6) In considering an application for a revision or supersession the Commission shall take into account any representations received at the date upon which it makes a decision under section 16 or 17 of the Child Support Act, from the relevant persons including any representations received in connection with the application in accordance with paragraphs (1)(b), (4)(a) and (7).

(7) Where any information or evidence requested by the Commission under regulation 15A is received after notification has been given under paragraph (1), it may, if it considers it reasonable to do so and except where such information or evidence falls within paragraph (2), send a copy of such information or evidence to the relevant persons and may invite them to submit representations, which need not be in writing unless the Commission so directs in any particular case, on that information or evidence.

(8) Where the Commission is considering making a decision under section 16 or 17 of the Child Support Act in accordance with this regulation, it shall apply the factors to be taken into account for the purposes of section 28F of the Child Support Act set out in regulation 21 of the Variations Regulations (factors to be taken into account and not to be taken into account) as factors to be taken into account and not to be taken into account when considering making a decision under this regulation.

(9) In this regulation "relevant person" means—

- (a) a non-resident parent, or a person treated as a non-resident parent under regulation 8 of the Maintenance Calculations and Special Cases Regulations (persons treated as non-resident parents), whose liability to pay child support maintenance may be affected by any variation agreed;
- (b) a person with care, or a child to whom section 7 of the Child Support Act applies, where the amount of child support maintenance payable by virtue of a calculation relevant to that person with care or in respect of that child may be affected by any variation agreed.

Notification of a decision made under section 16 or 17 of the Child Support Act

15C.—(1) Subject to paragraphs (2) and (5) to (11), a notification of a decision made following the revision or supersession of a decision made under section 11, 12 or 17 of the Child Support Act, whether as originally made or as revised under section 16 of that Act, shall set out, in relation to the decision in question—

- (a) the effective date of the maintenance calculation;
- (b) where relevant, the non-resident parent's net weekly income;
- (c) the number of qualifying children;
- (d) the number of relevant other children;
- (e) the weekly rate;
- (f) the amounts calculated in accordance with Part I of Schedule 1 to the Child Support Act and, where there has been agreement to a variation or a variation has otherwise been taken into account, the Variations Regulations;
- (g) where the weekly rate is adjusted by apportionment or shared care or both, the amount calculated in accordance with paragraph 6, 7 or 8, as the case may be, of Part I of Schedule 1 to the Child Support Act; and
- (h) where the amount of child support maintenance which the non-resident parent is liable to pay is decreased in accordance with regulation 9 of the Maintenance Calculations and Special Cases Regulations (care provided in part by local authority) or 11 (non-resident

<sup>1</sup>Words in reg. 15B substituted by reg. 4(9) of S.I. 2009/396 as from 6.4.09.

parent liable to pay maintenance under a maintenance order) of those Regulations, the adjustment calculated in accordance with that regulation.

(2) A notification of a revision or supersession of a maintenance calculation made under section 12(1) of the Child Support Act shall set out the effective date of the maintenance calculation, the default rate, the number of qualifying children on which the rate is based and whether any apportionment has been applied under regulation 7 of the Maintenance Calculation Procedure Regulations (default rate) and shall state the nature of the information required to enable a decision under section 11 of that Act to be made by way of section 16 of that Act.

(3) Except where a person gives written permission to the Commission that the information in relation to him, mentioned in sub-paragraphs (a) and (b), may be conveyed to other persons, any document given or sent under the provisions of paragraph (1) or (2) shall not contain—

- (a) the address of any person other than the recipient of the document in question (other than the address of the office of the officer concerned who is exercising functions of the Commission under the Child Support Act) or any other information the use of which could reasonably be expected to lead to any such person being located;
- (b) any other information the use of which could reasonably be expected to lead to any person, other than a qualifying child or a relevant person, being identified.

(4) Where a decision as to the revision or supersession of a decision made under section 11, 12 or 17 of the Child Support Act, whether as originally made or as revised under section 16 of that Act, is made under section 16 or 17 of that Act, a notification under paragraph (1) or (2) shall include information as to the provisions of sections 16, 17 and 20 of that Act.

(5) Where the Commission makes a decision that a maintenance calculation shall cease to have effect—

- (a) it shall immediately notify the non-resident parent and person with care, so far as that is reasonably practicable;
- (b) where a decision has been superseded in a case where a child under section 7 of the Child Support Act ceases to be a child for the purposes of that Act, it shall immediately notify the persons in sub-paragraph (a) and the other qualifying children within the meaning of section 7 of that Act; and
- (c) any notice under sub-paragraphs (a) and (b) shall specify the date with effect from which that decision took effect.

(6)-(8) ~~it~~

(9) Paragraphs (1) to (3) shall not apply where the Commission has decided not to supersede a decision under section 17 of the Child Support Act, and he shall, so far as that is reasonably practicable, notify the relevant persons of that decision.

(10) A notification under paragraphs (6) to (9) shall include information as to the provisions of sections 16, 17 and 20 of the Child Support Act.

(11) Where paragraph (9) applies, and the Commission decides not to supersede under regulation 6B, it shall notify the relevant person, in relation to the decision in question of—

- (a) the fact that regulation 6B applies to the decision;
- (b) the non-resident parent's net income figure fixed for the purposes of the maintenance calculation in force in accordance with Part I of Schedule 1 to the Child Support Act;
- (c) the non-resident parent's net income figure provided by that parent to the Commission with the application for supersession under regulation 6A(3);
- (d) the decision of the Commission not to supersede; and

<sup>1</sup>Words in reg. 15C substituted by reg. 4(10) of S.I. 2009/396 as from 6.4.09.

(e) the right to appeal against the decision under section 20 of the Child Support Act.

(12) Where an appeal lapses in accordance with section 16(6) or 28F(5) of the Child Support Act, the ►<sup>1</sup>Commission◄ shall, so far as that is reasonably practicable, notify the relevant persons that the appeal has lapsed.

15D. ►<sup>2</sup>◄

<sup>1</sup>Words in reg. 15C substituted by reg. 4(10) of S.I. 2009/396 as from 6.4.09.

<sup>2</sup>Reg. 15D omitted by reg. 4(11) of S.I. 2009/396 as from 6.4.09.





## PART III

### SUSPENSION, TERMINATION AND OTHER MATTERS

#### CHAPTER I

#### SUSPENSION AND TERMINATION

##### Suspension in prescribed cases

16.—(1) Subject to paragraph (2), the Secretary of State [▶<sup>1</sup>or the Board◀] may suspend payment of a relevant benefit, in whole or in part, in the circumstances prescribed in paragraph (3).

<sup>1</sup>Words in square brackets inserted in reg. 16(1) & 16(3) for tax credits purposes only by reg. 12 of S.I. 1999/2570 as from 5.10.99.

(2) The Secretary of State shall suspend payment of a jobseeker's allowance in the circumstances prescribed in paragraph (3)(a)(i) or (ii) where the issue or one of the issues is whether a person, who has claimed a jobseeker's allowance, is or was available for employment or whether he is or was actively seeking employment.

(3) The prescribed circumstances are that—

- (a) it appears to the Secretary of State [▶<sup>1</sup>or the Board◀] that—
  - (i) an issue arises whether the conditions for entitlement to a relevant benefit are or were fulfilled;
  - (ii) an issue arises whether a decision as to an award of a relevant benefit should be revised under section 9 or superseded under section 10;
  - (iii) an issue arises whether any amount paid or payable to a person by way of, or in connection with a claim for, a relevant benefit is recoverable under section 71 (overpayments), 71A (recovery of jobseeker's allowance: severe hardship cases(a) or 74 (income support and other payments) of the Administration Act or regulations made under any of those sections; or
  - (iv) the last address notified to him [▶<sup>1</sup>or them◀] of a person who is in receipt of a relevant benefit is not the address at which that person is residing; or
- (b) an appeal is pending against—
  - (i) a decision of ▶<sup>2</sup>the First-tier Tribunal, the Upper Tribunal◀ or a court;
  - (ii) a decision given in a different case by ▶<sup>2</sup>the Upper Tribunal◀ or a court, and it appears to the Secretary of State [▶<sup>1</sup>or the Board◀] that, if the appeal were to be determined in a particular way, an issue would arise as to whether the award of a relevant benefit (whether the same benefit or not) in the case itself ought to be revised or superseded.

<sup>2</sup>Words substituted in reg. 16(3)(b), (4) & sub-para. (a) & (b) by art. 109(2) & (3) of S.I. 2008/2683 as from 3.11.08.

▶<sup>3</sup>(4) For the purposes of section 21(3)(c) an appeal is pending where a decision of ▶<sup>2</sup>the First-tier Tribunal, the Upper Tribunal◀ or a court has been made and the Secretary of State—

<sup>3</sup>Para. (4) of reg. 16 substituted by reg. 20 of S.I. 2000/1596 as from 19.6.00.

- (a) is awaiting receipt of that decision or (in the case of ▶<sup>2</sup>a decision of the First-tier Tribunal◀) is considering whether to apply for a statement of the reasons for it, or has applied for such a statement and is awaiting receipt thereof; or
- (b) has received that decision or (in the case of ▶<sup>2</sup>a decision of the First-tier Tribunal◀) the statement of the reasons for it, and is considering whether to apply for ▶<sup>2</sup>permission◀ to appeal, or, where ▶<sup>2</sup>permission◀ to appeal has been granted, is considering whether to appeal;

and the Secretary of State shall give written notice of his proposal to make a request for a statement of the reasons for a tribunal decision, to apply for leave to appeal, or to appeal, as soon as reasonably practicable.◀

##### Provision of information or evidence

17.—(1) This regulation applies where the Secretary of State requires information or evidence for a determination whether a decision awarding a relevant benefit should be—

- (a) revised under section 9; or
- (b) superseded under section 10.

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(a) Section 71A was inserted by section 18 of the Jobseekers Act 1995 (c. 18).

## Reg. 17

(2) For the purposes of paragraph (1), the following persons must satisfy the requirements of paragraph (4)–

- (a) a person in respect of whom payment of a benefit has been suspended in the circumstances prescribed in regulation 16(3)(a);
- (b) a person who has made an application for a decision of the Secretary of State to be revised or superseded;
- <sup>1</sup>▶(c) a person from whom the Secretary of State requires information or evidence under regulation 32(1) of the Claims and Payments Regulations;
- (ca) a person from whom the Secretary of State requires documents, certificates or other evidence under regulation 24(5) or (5A) of the Jobseeker's Allowance Regulations;◀
- (d) a person who qualifies for income support by virtue of paragraph 7 of Schedule 1B to the Income Support Regulations(a);
- (e) a person whose entitlement to benefit is conditional upon his being, or being treated as, incapable of work.
- <sup>2</sup>▶(f) a person whose entitlement to an employment and support allowance is conditional on his having, or being treated as having, limited capability for work.◀

<sup>1</sup>Para. 17(2)(c) substituted and para. 2(ca) inserted by S.I. 2012/824 as from 17.4.12.

<sup>2</sup>Reg. 17(2)(f) inserted by reg. 40 of S.I. 2008/1554 as from 27.10.08.

(3) The Secretary of State shall notify any person to whom paragraph (2) refers of the requirements of this regulation.

(4) A person to whom paragraph (2) refers must either–

<sup>3</sup>Para. 17(4)(a)(i) substituted, words added in para. 17(4)(b) and para. (4A) inserted by S.I. 2012/824 as from 17.4.12.

- (a) supply the information or evidence within–
  - <sup>3</sup>▶(i) a period of 14 days beginning with the date on which the notification under paragraph (3) was sent to him or such longer period as the Secretary of State allows in that notification; or◀
  - (ii) such longer period as he satisfies the Secretary of State is necessary in order to enable him to comply with the requirement; or
- (b) satisfy the Secretary of State within the <sup>3</sup>▶period applicable under◀ sub-paragraph (a)(i) that either–
  - (i) the information or evidence required of him does not exist; or
  - (ii) that it is not possible for him to obtain it.

<sup>3</sup>▶(4A) In relation to a person to whom paragraph (2)(ca) refers, paragraph (4)(a)(i) has effect as if for “14 days” there were substituted “7 days”.◀

(5) The Secretary of State may suspend the payment of a relevant benefit, in whole or in part, to any person to whom paragraph (2)(b) to (e) applies who fails to satisfy the requirements of paragraph (4).

(6) In this regulation, “evidence” includes evidence which a person is required to provide in accordance with regulation 2 of the Social Security (Medical Evidence) Regulations 1976(b).

<sup>4</sup>Reg. 17 in square brackets substituted for existing reg. 17 for tax credits purposes only by reg. 13 of S.I. 1999/2570 as from 5.10.99.

#### ▶<sup>4</sup>Provision of information or evidence

**17.—(1)** This regulation applies where the Board require information or evidence for a determination whether a decision awarding tax credit should be–

- (a) revised under section 9; or
- (b) superseded under section 10.

(2) The relevant person shall furnish such certificates, documents, information and evidence as may be required by the Board for the purposes of paragraph (1), and shall do so within one month of being required to do so or such longer period as the Board may consider reasonable.

(3) In paragraph (2) “the relevant person” means any of the following –

- (a) the claimant concerned;
- (b) where the tax credit could have been claimed by either of two partners or where entitlement to or the amount of the tax credit was affected or liable to be affected by the circumstances of either partner, the partner other than the claimant;
- (c) the employer of the claimant or, where sub-paragraph (b) applies, the employer of the partner other than the claimant.

(a) Schedule 1B was inserted by S.I. 1996/206.

(b) S.I. 1976/615; relevant amending instruments are S.I. 1982/699, 1992/247 and 1994/2975.

(4) Where the claimant or any partner of the claimant is aged not less than 60 and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, the claimant shall, where the Board so require and within one month of being required to do so or such longer period as the Board may consider reasonable, furnish the following information-

- (a) the name and address of the pension fund holder;
- (b) such other information, including any reference number or policy number, as is needed to enable the personal pension scheme or retirement annuity contract to be identified.

(5) A pension fund holder to whom paragraph (4) applies shall, where the Board so require and within one month of being required to do so or such longer period as the Board may consider reasonable, provide the Board with the information specified in paragraph (6).

(6) The information referred to in this paragraph is-

- (a) where the purchase of an annuity under a personal pension scheme has been deferred, the amount of any income which is being withdrawn from the personal pension scheme;
- (b) in the case of-
  - (i) a personal pension scheme where income withdrawal is available, the maximum amount of income which may be withdrawn from the scheme; or
  - (ii) a personal pension scheme where income withdrawal is not available, or a retirement annuity contract, the maximum amount of income which might be withdrawn from the fund if the fund were held under a personal pension scheme where income withdrawal was available, calculated by or on behalf of the pension fund holder by means of tables prepared from time to time by the Government Actuary which are appropriate for this purpose.

(7) Every person providing childcare in respect of which a claimant to whom regulation 46A of the Family Credit (General) Regulations 1987(a) applies is incurring relevant childcare charges (within the meaning of that regulation), including a person providing childcare on behalf of a school, local authority, childcare scheme or establishment within paragraph (2)(b), (c) or (d) of that regulation, shall furnish such certificates, documents, information and evidence as may be required by the Board for the purposes of paragraph (1), and shall do so within one month of being required to do so or such longer period as the Board may consider reasonable. ◀]

#### **Termination in cases of failure to furnish information or evidence**

**18.—**(1) Subject to paragraphs (2), (3) and (4), the Secretary of State shall decide that where a person-

- (a) whose benefit has been suspended in accordance with regulation 16 and who subsequently fails to comply with an information requirement made in pursuance of regulation 17; or
- (b) whose benefit has been suspended in accordance with regulation 17(5),

that person shall cease to be entitled to that benefit from the date on which payment was suspended except where entitlement to benefit ceases on an earlier date other than under this regulation.

(2) Paragraph (1)(a) shall not apply where not more than one month has elapsed since the information requirement was made in pursuance of regulation 17.

(3) Paragraph (1)(b) shall not apply where not more than one month has elapsed since the first payment was suspended in accordance with regulation 17.

(4) Paragraph (1) shall not apply where benefit has been suspended in part under regulation 16 or, as the case may be, regulation 17.

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(a) S.I. 1987/1973; the regulation 13A inserted in S.I. 1987/1973 by S.I. 1994/1924 and amended by S.I. 1995/516, 1996/2545 and 1997/2793 was renumbered 46A and further amended by S.I. 1999/2487.

<sup>1</sup>Reg. 18 in square brackets substituted for existing reg. 18 for tax credits purposes only by reg. 13 of S.I. 1999/2570 as from 5.10.99.

▶<sup>1</sup>**Suspension and termination in cases of failure to furnish information or evidence**

**18.—(1)** Where a claimant—

- (a) is required by the Board under regulation 17 to furnish information, or evidence, and
- (b) fails to do so within the period specified by the Board in accordance with that regulation (“the suspension period”),

the Board may, subject to paragraphs (3) and (4), decide to suspend payment of tax credit to or on behalf of the claimant in whole or in part.

(2) Where either—

- (a) a claimant whose benefit has been suspended in whole or in part in accordance with regulation 16 subsequently fails to comply with a requirement for information or evidence made under regulation 17, within the suspension period, or within the period of one month immediately following the suspension period; or
- (b)
  - (i) a claimant has been required by the Board under regulation 17 to furnish information or evidence,
  - (ii) the claimant has failed to do so within the suspension period and within the period of one month immediately following the suspension period, and
  - (iii) the Board have suspended payment of tax credit to or on behalf of the claimant in whole or in part in accordance with paragraph (1) of this regulation,

the Board may, subject to paragraphs (3) to (5), decide that the claimant shall cease to be entitled to payment of tax credit with effect from a date not earlier than the date on which payment of tax credit was suspended.

(3) No decision shall be taken by the Board pursuant to paragraph (1) or (2) where—

- (a) the failure to furnish information has been remedied; or
- (b) the Board have allowed a further period of time (in addition to the suspension period or the period of one month referred to in paragraph (2)(a) or (b)(ii)) within which the claimant is required to furnish the information and the claimant has furnished the information within that further period.

(4) For the purposes of paragraphs (1) and (2), a claimant shall be deemed not to have failed to furnish information within the suspension period or within the period of one month referred to in paragraph (2)(a) or (b)(ii) if he had a reasonable excuse and that excuse has not ceased; and, where that excuse has ceased, he shall be deemed not to have failed to furnish information within either of those periods for those purposes if he furnished the information without unreasonable delay after the excuse had ceased.

(5) No decision shall be taken by the Board pursuant to paragraph (2) unless payment of the whole of the relevant tax credit to or on behalf of the claimant has been suspended, under regulation 16 or 17 or both of those regulations.◀

**Suspension and termination for failure to submit to medical examination**

**19.—(1)** Except where regulation 8 of the Social Security (Incapacity for Work) (General) Regulations 1995(a) ▶<sup>2</sup>◀ (where a question arises as to whether a person is capable of work) ▶<sup>2</sup> or regulation 23 of the Employment and Support Allowance Regulations (where a question arises whether a person has limited capability for work) applies◀, the Secretary of State [▶<sup>3</sup> or the Board◀] may require a person to submit to a medical examination by a medical practitioner where that person is in receipt of a relevant benefit, and either—

- (a) the Secretary of State considers [▶<sup>3</sup> or the Board consider◀] it necessary to satisfy himself [▶<sup>3</sup> or themselves◀] as to the correctness of the award of the benefit, or of the rate at which it was awarded; or

<sup>2</sup>Words omitted and inserted in reg. 19(1) by reg. 41(a) & (b) of S.I. 2008/1554 as from 27.10.08.

<sup>3</sup>Words in square brackets inserted in reg. 19(1) for tax credits purposes only by reg. 14 of S.I. 1999/2570 as from 5.10.99.

(a) S.I. 1995/311.

- (b) that person applies for a revision or supersession of the award and the Secretary of State considers [▶<sup>1</sup>or the Board consider◀] that the examination is necessary for the purpose of making his [▶<sup>1</sup>or their◀] decision.

<sup>1</sup>Words in square brackets inserted in regs. 19(1), (2), (3), 20(1)(a) & (b) for tax credit purposes only by regs. 14, 15(2) & (3) of S.I. 1999/2570 as from 5.10.09.

(2) The Secretary of State [▶<sup>1</sup>or the Board◀] may suspend payment of a relevant benefit in whole or in part, to a person who fails, without good cause, on two consecutive occasions to submit to a medical examination in accordance with requirements under paragraph (1) except where entitlement to benefit is suspended on an earlier date other than under this regulation.

(3) Subject to paragraph (4), the Secretary of State [▶<sup>1</sup>or the Board◀] may determine that the entitlement to a relevant benefit of a person, in respect of whom payment of such a benefit has been suspended under paragraph (2), shall cease from a date not earlier than the date on which payment was suspended except where entitlement to benefit ceases on an earlier date other than under this regulation.

(4) Paragraph (3) shall not apply where not more than one month has elapsed since the first payment was suspended under paragraph (2).

### Making of payments which have been suspended

20.—(1) Subject to paragraphs (2) and (3), payment of a benefit suspended in accordance with regulation 16 ▶<sup>2</sup>or 17◀ shall be made where—

<sup>2</sup>Words inserted in reg. 20(1) by reg. 6 of S.I. 1999/1623 as from 5.7.99.

- (a) in a case to which regulation 16(2) or (3)(a)(i) to (iii) applies, the Secretary of State is satisfied [▶<sup>1</sup>or the Board are satisfied◀] that the benefit suspended is properly payable and no outstanding issues remain to be resolved;
- (b) in a case to which regulation 16(3)(a)(iv) applies, the Secretary of State is satisfied [▶<sup>1</sup>or the Board are satisfied◀] that he has [▶<sup>1</sup>or they have◀] been notified of the address at which the person is residing;
- (c) ▶<sup>3</sup>◀
- ▶<sup>4</sup>(d) in a case to which regulation 17(5) applies, the Secretary of State is satisfied that the benefit suspended is properly payable and the requirements of regulation 17(4) have been satisfied.◀
- ▶<sup>5</sup>(d) in a case to which regulation 18(1) applies, the Board are satisfied that the benefit suspended is properly payable and the requirements of regulation 17(2), (4), (5) or (7) have been satisfied.◀

<sup>3</sup>Sub-para. (c) of reg. 20(1) omitted by reg. 21(a) of S.I. 2000/1956 as from 19.6.00.

<sup>4</sup>Sub-para. (d) inserted in reg. 20(1) by reg. 6 of S.I. 1999/1623 as from 5.7.99.

<sup>5</sup>Sub-para (d) in square brackets substituted for existing sub-para. (d) for tax credits purposes only by reg. 15(4) of S.I. 1999/2570 as from 5.10.99.

▶<sup>6</sup>(2) Where regulation 16(3)(b)(i) applies, payment of a benefit suspended shall be made if the Secretary of State—

<sup>6</sup>Paras. (2) & (3) of reg. 20 substituted by reg. 23(b) of S.I. 2000/1596 as from 19.6.00.

- (a) does not, in the case of a decision of ▶<sup>7</sup>the First-tier Tribunal◀, apply for a statement of the reasons for that decision within the period ▶<sup>7</sup>specified under Tribunal Procedure Rules◀;
- (b) does not, in the case of a decision of ▶<sup>7</sup>the First-tier Tribunal, the Upper Tribunal◀ or a court, make an application for ▶<sup>7</sup>permission◀ to appeal and (where ▶<sup>7</sup>permission◀ to appeal is granted) make the appeal within the time prescribed for the making of such applications and appeals;
- (c) withdraws an application for ▶<sup>7</sup>permission◀ to appeal or the appeal; or
- (d) is refused ▶<sup>7</sup>permission◀ to appeal, in circumstances where it is not open to him to renew the application for ▶<sup>7</sup>permission◀ or to make a further application for ▶<sup>7</sup>permission◀ to appeal.

<sup>7</sup>Words in reg. 20(2)(a)-(d) & (3)(a)-(c) by art. 110(2)(a)-(c) & (3)(a) & (b) of S.I. 2008/2683 as from 3.11.08.

(3) Where regulation 16(3)(b)(ii) applies, payment of a benefit suspended shall be made if the Secretary of State, in relation to the decision of ▶<sup>7</sup>the Upper Tribunal◀ or the court in a different case—

- (a) does not make an application for ▶<sup>7</sup>permission◀ to appeal and (where ▶<sup>7</sup>permission◀ to appeal is granted) make the appeal within the time prescribed for the making of such applications and appeals
- (b) withdraws an application for ▶<sup>7</sup>permission◀ to appeal or the appeal; or
- (c) is refused ▶<sup>7</sup>permission◀ to appeal, in circumstances where it is not open to him to renew the application for ▶<sup>7</sup>permission◀ or to make a further application for ▶<sup>7</sup>permission◀ to appeal.◀



(4) Payment of benefit which has been suspended in accordance with regulation 19 for failure to submit to a medical examination shall be made where the Secretary of State is satisfied [▶<sup>1</sup>or the Board are satisfied◀] that it is no longer necessary for the person referred to in that regulation to submit to a medical examination.

<sup>1</sup>Words in square brackets inserted in reg. 20(4) for tax credits purposes only by reg. 15(2) of S.I. 1999/2570 as from 5.10.99.

## CHAPTER II

### OTHER MATTERS

#### Decisions involving issues that arise on appeal in other cases

**21.**—(1) For the purposes of section 25(3)(b) (prescribed cases and circumstances in which a decision may be made on a prescribed basis) a case which satisfies the condition in paragraph (2) is a prescribed case.

(2) The condition is that the claimant would be entitled to the benefit to which the decision which falls to be made relates, even if the appeal in the other case referred to in section 25(1)(b) were decided in a way which is the most unfavourable to him.

(3) For the purposes of section 25(3)(b), the prescribed basis on which the Secretary of State [▶<sup>2</sup>or the Board◀] may make the decision is as if—

- (a) the appeal in the other case which is referred to in section 25(1)(b) had already been determined; and
- (b) that appeal had been decided in a way which is the most unfavourable to the claimant.

(4) The circumstance prescribed under section 25(5)(c), where an appeal is pending against a decision for the purposes of that section, even though an appeal against the decision has not been brought (or, as the case may be, an application for ▶<sup>3</sup>permission◀ to appeal against the decision has not been made) but the time for doing so has not yet expired, is where the Secretary of State [▶<sup>2</sup>or the Board◀]—

- (a) certifies in writing that he is [▶<sup>2</sup>, or certify in writing that they are,◀] considering appealing against that decision; and
- (b) considers [▶<sup>2</sup>, or consider,◀] that, if such an appeal were to be determined in a particular way—
  - (i) there would be no entitlement to benefit in a case to which section 25(1)(a) refers; or
  - (ii) the appeal would affect the decision in that case in some other way.

<sup>2</sup>Words in square brackets inserted in reg. 21(3) & (4) for tax credits purposes only by reg. 16 of S.I. 1999/2570 as from 5.10.99.

<sup>3</sup>Words in reg. 21(4) & 22 substituted by arts. 111 & 112 of S.I. 2008/2683 as from 3.11.08.

#### Appeals involving issues that arise in other cases

**22.** The circumstance prescribed under section 26(6)(c), where an appeal is pending against a decision in the case described in section 26(1)(b) even though an appeal against the decision has not been brought (or, as the case may be, an application for ▶<sup>3</sup>permission◀ to appeal against the decision has not been made) but the time for doing so has not yet expired, is where the Secretary of State [▶<sup>4</sup>or the Board◀]—

- (a) certifies in writing that he is [▶<sup>4</sup>, or certify in writing that they are,◀] considering appealing against that decision; and
- (b) considers [▶<sup>4</sup>or consider◀] that, if such an appeal were already determined, it would affect the determination of the appeal described in section 26(1)(a).

<sup>4</sup>Words in square brackets inserted in reg. 22 for tax credits purposes only by reg. 17 of S.I. 1999/2570 as from 5.10.99.

<sup>5</sup>Regs. 23 and 24 omitted by reg. 6(3) of S.I. 2012/2785 as from 10.12.12.

**23.** ▶<sup>5</sup>◀

**24.** ▶<sup>5</sup>◀

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, Regs. 23 & 24 are reproduced below.*

Child support decisions involving issues that arise on appeal in other cases

23.—(1) For the purposes of section 28ZA(2)(b) of the Child Support Act(a) (prescribed cases and circumstances in which a decision may be made on a prescribed basis), a case which satisfies either of the conditions in paragraph (2) is a prescribed case.

(2) The conditions referred to in paragraph (1) are that—

- (a) if a decision were not made on the basis prescribed in paragraph (3), the parent with care would become entitled to income support if a claim were made, or to an increased amount of that benefit;
- (b) the ►<sup>1</sup>non-resident parent◄ is an employed earner or a self-employed earner.

(3) For the purposes of section 28ZA(2)(b) of the Child Support Act, the prescribed basis on which the ►<sup>2</sup>Commission◄ may make the decision is as if—

- (a) the appeal in relation to the different maintenance ►<sup>1</sup>calculation◄, which is referred to in section 28ZA(1)(b) of that Act had already been determined; and
- (b) that appeal had been decided in a way that was the most unfavourable to the applicant for the decision mentioned in section 28ZA(1)(a) of that Act.

(4) The circumstances prescribed under section 28ZA(4)(c) of the Child Support Act (where an appeal is pending against a decision for the purposes of that section, even though an appeal against the decision has not been brought or, as the case may be, an application for ►<sup>3</sup>permission◄ to appeal against the decision has not been made but the time for doing so has not expired), are that the ►<sup>2</sup>Commission◄—

- (a) certifies in writing that ►<sup>2</sup>it◄ is considering appealing against that decision; and
- (b) ►<sup>2</sup>it◄ considers that, if such an appeal were to be determined in a particular way—
  - (i) there would be no liability for child support maintenance, or
  - (ii) such liability would be less than would be the case were an appeal not made.

(5) In this regulation—

- <sup>1</sup>“non-resident parent”◄ and “parent with care” have the same meaning as in section 54 of the Child Support Act;
- “employed earner” and “self-employed earner” have the same meaning as in section 2(1) of the Contributions and Benefits Act.

Child support appeals involving issues that arise in other cases

24. The circumstances prescribed under section 28ZB(6)(c) of the Child Support Act(b), where an appeal is pending against a decision in the case described in section 28ZB(1)(b) even though an appeal against the decision has not been brought (or, as the case may be, an application for ►<sup>3</sup>permission◄ to appeal against the decision has not been made), is where the ►<sup>2</sup>Commission◄—

- (a) certifies in writing that ►<sup>2</sup>it◄ is considering appealing against that decision, and
- (b) considers that, if such an appeal were already determined, it would affect the determination of the appeal described in section 28ZB(1)(a).

<sup>1</sup>Words substituted in regs. 23(2), (3) & (5) by reg. 4 of S.I. 2001/158. See reg. 1(3) of S.I. 2001/158 for effective dates.  
<sup>2</sup>Words substituted in reg. 23(3), (4) & 24 by reg. 4(12) & (13) of S.I. 2009/396 as from 6.4.09.

<sup>3</sup>Words substituted in reg. 23(4) & 24 by arts. 113 & 114 of S.I. 2008/2683 as from 3.11.08.

(a) Section 28ZA was inserted by section 43 of the Social Security Act 1998.

(b) Section 28ZB was inserted by section 43 of the Social Security Act 1998.

## PART IV

RIGHTS OF APPEAL AND PROCEDURE FOR BRINGING  
APPEALS

## CHAPTER I

## GENERAL

## GENERAL APPEALS MATTERS NOT INCLUDING CHILD SUPPORT APPEALS

**Other persons with a right of appeal**

<sup>1</sup>Words in reg. 25 substituted by reg. 2(3) of S.I. 2004/3368 as from 21.12.04.

<sup>2</sup>Words inserted in reg. 25 and 26 by reg. 4(7) & (8) of S.I. 2013/2380 as from 28.10.13.

<sup>3</sup>Words substituted in reg. 25 by art. 115 of S.I. 2008/2683 as from 3.11.08.

<sup>4</sup>Paras. (ai)-(aiii) inserted in reg. 25 by reg. 7 of S.I. 2001/1379 as from 20.5.02.

<sup>5</sup>Words in square brackets inserted in regs. 25(a) & 26 for tax credit purposes only by regs. 18 & 19 of S.I. 1999/2570 as from 5.10.99.

<sup>6</sup>Words substituted in reg. 26 by art. 116 of S.I. 2008/2683 as from 3.11.08.

<sup>7</sup>Word "or" & para. (c) inserted in reg. 26 by reg. 22 of S.I. 2000/1596 as from 19.6.00.

<sup>8</sup>Word "or" & para. (d) inserted in reg. 26 by reg. 4(b) of S.I. 2001/518 as from 19.3.01.

**25.** For the purposes of ►<sup>1</sup>section 12(2)◀<sup>2</sup>, but subject to regulation 3ZA,◀ the following other persons have a right to appeal to ►<sup>3</sup>the First-tier Tribunal◀ –

- <sup>4</sup>(ai) any person who has been appointed by the Secretary of State or the Board under regulation 30(1)(a) of the Claims and Payments Regulations (payments on death) to proceed with the claim of a person who has made a claim for benefit and subsequently died;
- (aii) any person who is appointed by the Secretary of State to claim benefit on behalf of a deceased person and who claims the benefit under regulation 30(5) and (6)(b) of the Claims and Payments Regulations;
- (aiii) any person who is appointed by the Secretary of State to make a claim for reduced earnings allowance or disablement benefit in the name of a person who has died and who claims under regulation 30(6A) and (6B)(c) of the Claims and Payments Regulations;◀
- (a) any person appointed by the Secretary of State [►<sup>5</sup>or the Board◀] under regulation 33(1) of the Claims and Payments Regulations (persons unable to act) to act on behalf of another;
- (b) any person claiming attendance allowance or disability living allowance on behalf of another under section 66(2)(b) of the Contributions and Benefits Act or, as the case may be, section 76(3) of that Act (claims on behalf of terminally ill persons);
- (c) in relation to a pension scheme, any person who, for the purposes of Part X of the Pension Schemes Act 1993(d), is an employer, member, trustee or manager by virtue of section 146(8) of that Act.

**Decisions against which an appeal lies**

**26.** ►<sup>2</sup>subject to regulation 3ZA,◀ an appeal shall lie to ►<sup>6</sup>the First-tier Tribunal◀ against a decision made by the Secretary of State [►<sup>5</sup>or an officer of the Board◀]–

- (a) as to whether a person is entitled to a relevant benefit for which no claim is required by virtue of regulation 3 of the Claims and Payments Regulations(e); or
- (b) as to whether a payment be made out of the social fund to a person to meet expenses for heating by virtue of regulations made under section 138(2) of the Contributions and Benefits Act (payments out of the social fund), ►<sup>7</sup>or
- (c) under Schedule 6 to the Contributions and Benefits Act(f) (assessment of extent of disablement) in relation to sections 103 (disablement benefit) and 108 (prescribed diseases) of that Act for the purposes of industrial injuries benefit under Part V of that Act.◀►<sup>8</sup>; or

(a) Regulation 30(1) was amended by S.I. 1999/2572.

(b) Regulation 30(5) was amended by S.I. 1988/1725, 1990/2208, 1991/2741, 1996/1460 and 1999/2572.

(c) Paragraphs (6A) and (6B) were inserted by S.I. 1990/2208.

(d) 1993 c. 48.

(e) The relevant amending instruments are S.I. 1989/2943 and S.I. 1996/1460.

(f) 1992 c. 4.

- (d) under section 59 of, and Schedule 7 to, the Welfare Reform and Pensions Act 1999<sup>(a)</sup> (couples to make joint-claim for jobseeker's allowance) where one member of the couple is working and the Secretary of State has decided that both members of the couple are not engaged in remunerative work<sup>1</sup>; or
- (e) under, or by virtue of regulations made under, section 23A (contributions credits for relevant parents and carers) of the Contributions and Benefits Act.

<sup>1</sup>In reg. 26 words added to para. (d) and para. (e) inserted by reg. 2 of S.I. 2009/2715 as from 6.4.10.

### Decisions against which no appeal lies

27.—(1) No appeal lies to <sup>2</sup>the First-tier Tribunal<sup>3</sup> against a decision set out in Schedule 2.

(2) In paragraph (1) and Schedule 2, “decision” includes determinations embodied in or necessary to a decision.

(3) <sup>2</sup>.

<sup>2</sup>Words substituted in reg. 27(1); para. (3) & heading to reg. 29, paras. (1)-(2) & words in paras. 4 & 5 omitted, para. (3) substituted by arts. 117 & 118(a)-(e) of S.I. 2008/2683 as from 3.11.08.

### Notice of decision against which appeal lies

28.—(1) A person with a right of appeal under the Act or these Regulations against any decision of the Secretary of State [<sup>3</sup>or the Board or an officer of the Board<sup>4</sup>] shall—

- (a) be given written notice of the decision against which the appeal lies;
- (b) be informed that, in a case where that written notice does not include a statement of the reasons for that decision, he may, within one month of the date of notification of that decision, request that the Secretary of State [<sup>2</sup>or the Board or an officer of the Board<sup>4</sup>] provide him with a written statement of the reasons for that decision; and
- (c) be given written notice of his right of appeal against that decision.

(2) Where a written statement of the reasons for the decision is not included in the written notice of the decision and is requested under paragraph (1)(b), the Secretary of State [<sup>3</sup>or the Board or an officer of the Board<sup>4</sup>] shall provide that statement within 14 days of receipt of the request <sup>4</sup>or as soon as practicable afterwards.

<sup>3</sup>Words in square brackets inserted in reg. 28 for tax credits purposes only by reg. 20 of S.I. 1999/2570 as from 5.10.99.

<sup>4</sup>Words added to reg. 28(2) by reg. 2(6) of S.I. 2005/337 as from 18.3.05.

### Further particulars required relating to certificate of recoverable benefits appeals <sup>2</sup>

29.—(1)-(2) <sup>2</sup>

<sup>5</sup>

*Sub-paragraph (3)-(5) deleted but kept in force for saving and transitional provisions. See reg. 8 to S.I. 2013/2380 for when to apply.*

<sup>2</sup>(3) Where it appears to the Secretary of State that a notice of appeal in respect of an appeal under the 1997 Act relating to a certificate of recoverable benefits or, as the case may be, recoverable lump sum payments does not contain the particulars required, the Secretary of State may direct the appellant to provide such particulars.

(4) Where paragraph (3) applies, the time specified for making the appeal <sup>2</sup> may be extended by such period, not exceeding 14 days from the date of the Secretary of State's direction under paragraph (3), as the Secretary of State may determine.

(5) Where further particulars <sup>2</sup> are required under paragraph (3) they shall be sent to or delivered to the Compensation Recovery Unit of the <sup>6</sup>Department for Work and Pensions<sup>7</sup> at <sup>7</sup>Durham House, Washington, Tyne and Wear, NE38 7S<sup>8</sup> within such period as the Secretary of State may direct.

<sup>5</sup>Reg. 29(3)-(5) deleted by reg. 4(10)(b) of S.I. 2013/2380 as from 28.10.13.

<sup>6</sup>Words in reg. 29(5) substituted by reg. 8 of S.I. 2002/1379 as from 20.5.02.

<sup>7</sup>Words substituted in reg. 29(5) by reg. 3 of S.I. 2000/3030 as from 4.12.00.

(a) 1999 c. 30.

## Regs. 29-30

<sup>1</sup>Reg. 29(6) substituted by reg. 4(9) of S.I. 2013/2380 as from 28.10.13.

- ▶<sup>1</sup>(6) The Secretary of State may treat any—
- (a) purported appeal (where, as the result of regulation 9ZB(2) (consideration of review before appeal), there is no right of appeal);
  - (b) appeal relating to the certificate of recoverable benefits; or
  - (c) appeal relating to the certificate of recoverable lump sum payments,

as an application for review under section 10 of the 1997 Act.◀

## GENERAL APPEALS MATTERS INCLUDING CHILD SUPPORT APPEALS

<sup>2</sup>Words in the heading to reg. 30 & words in regs. 30(4) omitted, regs. 30(1) & (3) substituted by reg. 6(5)-(7) of S.I. 2012/2785 as from 10.12.12.

**Appeal against a decision which has been ▶<sup>2</sup>◀ revised**

**30.—▶<sup>2</sup>(1)** An appeal against a decision of the Secretary of State or the Board or an officer of the Board shall not lapse where—

- (a) the decision is revised under section 9 before the appeal is determined; and
- (b) the decision as revised is not more advantageous to the appellant than the decision before it was revised.◀

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, Regs. 30(1), (3), (4) & (5) are reproduced below.*

Appeal against a decision which has been ▶<sup>3</sup>replaced or◀ revised

30.—(1) An appeal against a decision of the Secretary of State ▶<sup>4</sup>, the Commission◀ [▶<sup>3</sup>or the Board or an officer of the Board◀] shall not lapse where the decision ▶<sup>3</sup>is treated as replaced by a decision under section 11 of the Child Support Act by section 28F(5) of that Act, or is revised under section 16 of that Act◀ or section 9 before the appeal is determined and the decision as ▶<sup>3</sup>replaced or◀ revised is not more advantageous to the appellant than the decision before it was ▶<sup>3</sup>replaced or◀ revised.

<sup>3</sup>Words inserted in heading to reg. 30, substituted & inserted in regs. 30(1), (3) & (5) by reg. 11 of S.I. 2000/3185. See regs. of S.I. 2000/3185 for relevant effective dates.

<sup>4</sup>Words substituted in reg. 30(1), (5) & 30A by regs. 4(14) & (15) of S.I. 2009/396 as from 6.4.09.

<sup>5</sup>Words in square brackets inserted in regs. 30(1) & (5) for tax credit purposes only by reg. 21 of S.I. 1999/2570 as from 5.10.99.

(2) Decisions which are more advantageous for the purposes of this regulation include decisions where—

- (a) any relevant benefit paid to the appellant is greater or is awarded for a longer period in consequence of the decision made under section 9;
- (b) it would have resulted in the amount of relevant benefit in payment being greater but for the operation of any provision of the Administration Act or the Contributions and Benefits Act restricting or suspending the payment of, or disqualifying a claimant from receiving, some or all of the benefit;
- (c) as a result of the decision, a denial or disqualification for the receiving of any relevant benefit, is lifted, wholly or in part;
- (d) it reverses a decision to pay benefit to a third party;
- ▶<sup>6</sup>(dd) it reverses a decision under section 29(2) that an accident is not an industrial accident;◀
- (e) in consequence of the revised decision, benefit paid is not recoverable under section 71, 71A or 74 of the Administration Act(a) or regulations made under any of those sections, or the amount so recoverable is reduced; or
- (f) a financial gain accrued or will accrue to the appellant in consequence of the decision.

▶<sup>2</sup>(3) Where a decision as revised under section 9 is not more advantageous to the appellant than the decision before it was revised, the appeal shall be treated as though it had been brought against the decision as revised.◀

(4) The appellant shall have a period of one month from the date of notification of the decision as ▶<sup>2</sup>◀ revised to make further representations as to the appeal.

<sup>6</sup>Sub-para. (dd) inserted in reg. 30(2) by reg. 2(7) of S.I. 2005/337 as from 18.3.05.

(a) Section 71A was inserted by section 18 of the Jobseekers Act 1995 (c. 18).



(5) After the expiration of the period specified in paragraph (4), or within that period if the appellant consents in writing, the appeal to the <sup>1</sup>First-tier Tribunal shall proceed except where, in the light of the further representations from the appellant, the Secretary of State <sup>2</sup> [ <sup>3</sup> or the Board or an officer of the Board ] further revises his [ <sup>3</sup> or revise their ] decision and that decision is more advantageous to the appellant than the decision before it was <sup>4</sup> revised.

(3) Where a decision as <sup>5</sup> replaced under section 28F(5) of the Child Support Act or revised under section 16 of that Act <sup>6</sup> revised under section 16 of the Child Support Act or under section 9 is not more advantageous to the appellant than the decision before it was <sup>5</sup> replaced or <sup>6</sup> revised, the appeal shall be treated as though it had been brought against the decision as <sup>5</sup> replaced or <sup>6</sup> revised.

(4) The appellant shall have a period of one month from the date of notification of the decision as <sup>5</sup> replaced or <sup>6</sup> revised to make further representations as to the appeal.

(5) After the expiration of the period specified in paragraph (4), or within that period if the appellant consents in writing, the appeal to the <sup>7</sup> First-tier Tribunal shall proceed except where, in the light of the further representations from the appellant, the Secretary of State <sup>7</sup>, the Commission <sup>8</sup> [ <sup>8</sup> or the Board or an officer of the Board ] further revises his [ <sup>8</sup> or revise their ] decision and that decision is more advantageous to the appellant than the decision before it was <sup>5</sup> replaced or <sup>6</sup> revised.

**30A.** <sup>9</sup>

*For cases where the saving provisions in reg. 15 of S.I. 2009/3151 apply, reg. 30A is reproduced below.*

<sup>10</sup> Appeals to <sup>11</sup> the First-tier Tribunal in child support cases

30A. Section 20 of the Child Support Act shall apply to any decision <sup>12</sup> of the Commission with respect to the adjustment of amounts payable under a maintenance calculation for the purpose of taking account of overpayments of child support maintenance or voluntary payments(a). <sup>13</sup>

**31.** <sup>11</sup>

**32.** <sup>13</sup>

*Regulation 32 deleted but kept in force for saving and transitional provisions. See reg. 8 to S.I. 2013/2380 for when to apply.*

Late appeals

*See reg. 5 of S.I. 2002/1915 at page 2311 for details of modification of this reg. in certain situations.*

*See reg. 5 of S.I. 2003/96 at page 2321 for details of modification of this reg. in certain situations.*

<sup>14</sup> 32.—(1) Where a dispute arises as to whether an appeal was brought within the time specified under Tribunal Procedure Rules the dispute shall be referred to, and determined by, the First-tier Tribunal.

(2) The Secretary of State, <sup>15</sup> or the Board, as the case may be, may treat a late appeal as made in time in accordance with Tribunal Procedure Rules if the conditions in paragraphs (4) to (8) are satisfied. <sup>16</sup>

<sup>14</sup>(4) An appeal may be treated as made in time if the Secretary of State, <sup>15</sup> or the Board, as the case may be, is satisfied that it is in the interests of justice. <sup>16</sup>

(5) For the purposes of paragraph (4) it is not in the interests of justice to <sup>14</sup> treat the appeal as made in time unless <sup>16</sup>, the Secretary of State or the Board, as the case may be, <sup>16</sup> is satisfied that—

- (a) the special circumstances specified in paragraph (6) are relevant <sup>14</sup>; or
- (b) some other special circumstances exist which are wholly exceptional and relevant <sup>14</sup>,

<sup>1</sup>Words in reg. 30(5), by art. 119 of S.I. 2008/2683 as from 3.11.08.

<sup>2</sup>Words in reg. 30 omitted by reg. 113(12) of S.I. 2012/2007 as from 1.8.12.

<sup>3</sup>Words in square brackets inserted in regs. 30(5) for tax credit purposes only by reg. 21 of S.I. 1999/2570 as from 5.10.99.

<sup>4</sup>Words in regs. 30(5) omitted by reg. 6(5) of S.I. 2012/2785 as from 10.12.12.

<sup>5</sup>Words substituted & inserted in reg. 30(3) & (5) by reg. 11 of S.I. 2000/3185. See regs. of S.I. 2000/3185 for relevant effective dates.

<sup>6</sup>Words in reg. 30(5), header to reg. 30A substituted & reg. 31 omitted by arts. 119, 120 & 121 of S.I. 2008/2683 as from 3.11.08.

<sup>7</sup>Words substituted in reg. 30(5) & 30A by reg. 4(14) & (15) of S.I. 2009/396 as from 6.4.09.

<sup>8</sup>Words in square brackets inserted in regs. 30(5) for tax credit purposes only by reg. 21 of S.I. 1999/2570 as from 5.10.99.

<sup>9</sup>Reg. 30A revoked by Sch. to S.I. 2009/3151 as from 25.1.10.

<sup>10</sup>Reg. 30A inserted by reg. 12 of S.I. 2000/3185. See reg. 1 of S.I. 2000/3185 for relevant effective dates.

<sup>11</sup>Words in header to reg. 30A substituted & reg. 31 omitted by arts. 120 & 121 of S.I. 2008/2683 as from 3.11.08.

<sup>12</sup>Words substituted in reg. 30A by reg. 4(15) of S.I. 2009/396 as from 6.4.09.

<sup>13</sup>Reg. 32 deleted by reg. 4(10)(c) of S.I. 2013/2380 as from 28.10.13.

<sup>14</sup>Reg. 32(1)-(3) substituted for (1) & (2), para. (4) & words in para. (5) substituted & omitted by art. 122(a)-(c) of S.I. 2008/2683 as from 3.11.08.

<sup>15</sup>Words omitted in reg. 32(2) and (4) by reg. 113(13) & (14) of S.I. 2012/2007 as from 1.8.12.

<sup>16</sup>Words substituted in para. (5) by reg. 10 of S.I. 2002/1379 as from 20.5.02.

(a) “voluntary payment” is defined in section 54 of the Child Support Act 1991 (c. 48).

## Regs. 32-33

<sup>1</sup>Words substituted in para. (5) by reg. 10 of S.I. 2002/1379 as from 20.5.02.

<sup>2</sup>Words in reg. 32(5)-(6) substituted by art. 122(c)-(d) of S.I. 2008/2683 as from 3.11.08.

<sup>3</sup>Words in reg. 32(7) substituted by art. 122(e) of S.I. 2008/2683 as from 3.11.08.

<sup>4</sup>Words substituted in para. (7) by reg. 10 of S.I. 2002/1379 as from 20.5.02.

<sup>5</sup>Words in reg. 32(8) substituted, paras. (9)-(11) omitted, heading to reg. 33 substituted & para. (1) deleted by art. 122(8) & 123(2) & (3) of S.I. 2008/2683 as from 3.11.08.

<sup>6</sup>Reg. 33 deleted by reg. 4(10)(d) of S.I. 2013/2380 as from 28.10.13.

<sup>7</sup>Words in reg. 33(2) substituted by art. 123(4) & (5) of S.I. 2008/2683 as from 3.11.08.

<sup>8</sup>Words omitted in reg. 33(2) by reg. 113(14) of S.I. 2012/2007 as from 1.8.12.

<sup>9</sup>Words in sub-para. 33(2)(a), (b), (c) & (e) substituted by reg. 11(a) of S.I. 2002/1379 as from 20.5.02.

<sup>10</sup>Words substituted in reg. 33(2)(a) by reg. 4 of S.I. 2000/3030 as from 4.12.00.

<sup>11</sup>Words & sub-para. (cc) inserted by reg. 3(4) of S.I. 1999/1662 (c. 47) as from 5.7.99.

<sup>12</sup>Reg. 33(2)(d) omitted by reg. 6(7) of S.I. 2012/2785 as from 10.12.12.

<sup>13</sup>Words deleted from reg. 33(2)(d) by reg. 4(4) of S.I. 2001/158. See reg. 1(3) of S.I. 2001/158 for relevant dates.

and as a result of those special circumstances, it was not practicable for the <sup>1</sup>appeal to be made<sup>◀</sup> within the time limit specified in <sup>2</sup>Tribunal Procedure Rules<sup>◀</sup>.

(6) For the purposes of paragraph (5)(a), the special circumstances are that—

- (a) the <sup>2</sup>appellant<sup>◀</sup> or a <sup>2</sup>partner<sup>◀</sup> or dependant of the <sup>2</sup>appellant<sup>◀</sup> has died or suffered serious illness;
- (b) the <sup>2</sup>appellant<sup>◀</sup> is not resident in the United Kingdom; or
- (c) normal postal services were disrupted.

(7) In determining whether it is in the interests of justice to <sup>3</sup>treat the appeal as made in time<sup>◀</sup>, <sup>4</sup>regard shall be had<sup>◀</sup> to the principle that the greater the amount of time that has elapsed between the expiration of the time <sup>3</sup>limit under Tribunal Procedure Rules and the submission of the notice of appeal, the more compelling should be the special circumstances.<sup>◀</sup>

(8) In determining whether it is in the interests of justice to <sup>3</sup>treat the appeal as made in time<sup>◀</sup>, no account shall be taken of the following—

- (a) that the applicant or any person acting for him was unaware of or misunderstood the law applicable to his case (including ignorance or misunderstanding of the time limits imposed by <sup>3</sup>Tribunal Procedure Rules<sup>◀</sup>); or
- (b) that <sup>5</sup>the Upper Tribunal<sup>◀</sup> or a court has taken a different view of the law from that previously understood and applied.

9.-11. <sup>5</sup>◀.

33. <sup>6</sup>◀

*Regulation 33 deleted but kept in force for saving and transitional provisions. See reg. 8 to S.I. 2013/2380 for when to apply.*

<sup>5</sup>Notice of Appeal<sup>◀</sup>

33.—(1) <sup>5</sup>◀

<sup>7</sup>(2) A notice of appeal made in accordance with Tribunal Procedure Rules and on a form approved by the Secretary of State, the <sup>8</sup>◀ or the Board, as the case may be, or in such other format as the Secretary of State, <sup>8</sup>◀ or the Board, as the case may be, accepts, is to be sent or delivered to the following appropriate office<sup>◀</sup>—

- (a) in the case of an appeal under the 1997 Act against a certificate of recoverable benefits, the Compensation Recovery Unit of the <sup>9</sup>Department for Work and Pensions<sup>◀</sup> at <sup>10</sup>Durham House, Washington, Tyne and Wear, NE38 7S<sup>◀◀</sup>;
- (b) in the case of an appeal against a decision relating to a jobseeker's allowance, an office of the <sup>9</sup>Department for Work and Pensions and the address of which was indicated on the notification of the decision which is subject to appeal<sup>◀</sup>;
- (c) in the case of a contributions decision which falls within Part II of Schedule 3 to the Act, any National Insurance Contributions office <sup>9</sup>of the Board, or any office of the <sup>9</sup>Department Work and Pensions<sup>◀</sup>;
- (<sup>11</sup>cc) in the case of a decision made under the Pensions Schemes Act 1993 by virtue of section 170(2) of that Act, any National Insurance Contributions office of the Board;<sup>◀</sup>
- (d) <sup>12</sup>◀

*For cases where the savings provisions in reg. 1(4) & 11 of S.I. 2012/2785 apply, Reg. 33(2)(d) is reproduced below.*

- (d) in the case of an appeal under section 20 of the Child Support Act <sup>13</sup>◀, an office of the Child Support Agency; and

**Reg. 33**

- ▶<sup>1</sup>(dd) in the case of an appeal against a decision relating to working families' tax credit or disabled person's tax credit, a Tax Credits Office of the Board, and◀]
- ▶<sup>2</sup>(ddd) in a case where the decision appealed against was a decision arising from a claim to a designated office, an office of a designated authority;◀
- (e) in any other case, an office of the ▶<sup>3</sup>Department for Work and Pensions the address of which was indicated on the notification of the decision which is subject to appeal◀.
- ▶<sup>4</sup>(3) Except where paragraph (4) applies, where a form does not contain the information required under Tribunal Procedure Rules the form may be returned by the Secretary of State, the Commission or the Board to the sender for completion in accordance with the Tribunal Procedure Rules.◀
- (4) Where the Secretary of State is satisfied [▶<sup>5</sup>or the Board are satisfied◀] that the form, although not completed in accordance with the instructions on it, includes sufficient information to enable the appeal ▶<sup>6</sup>◀ to proceed, he [▶<sup>5</sup>or they◀] may treat the form as satisfying the requirements of ▶<sup>6</sup>Tribunal Procedure Rules◀.
- (5) Where ▶<sup>6</sup>a notice of appeal◀ is made in writing otherwise than on the approved form ("the letter"), and the letter includes sufficient information to enable the appeal ▶<sup>6</sup>◀ to proceed, the Secretary of State [▶<sup>5</sup>or the Board◀] may treat the letter as satisfying the requirements of ▶<sup>6</sup>Tribunal Procedure Rules◀.
- (6) Where the letter does not include sufficient information to enable the appeal ▶<sup>6</sup>◀ to proceed, the Secretary of State [▶<sup>5</sup>or the Board◀] may request further information in writing ("further particulars") from the person who wrote the letter.
- ▶<sup>7</sup>(7) Where a person to whom a form is returned, or from whom further particulars are requested, duly completes and returns the form or sends the further particulars, if the form or particulars, as the case may be, are received by the Secretary of State or the Board within-
- (a) 14 days of the date on which the form was returned to him by the Secretary of State or the Board, the time for making the appeal shall be extended by 14 days from the date on which the form was returned;
- (b) 14 days of the date on which the Secretary of State's or the Board's request was made, the time for making the appeal shall be extended by 14 days from the date of the request; or
- (c) such longer period as the Secretary of State or the Board may direct, the time for making the appeal shall be extended by a period equal to that longer period directed by the Secretary of State or the Board.◀
- (8) Where a person to whom a form is returned or from whom further particulars are requested does not complete and return the form or send further particulars within the period of time specified in paragraph (7)-
- (a) the Secretary of State [▶<sup>8</sup>or the Board◀] shall forward a copy of the form, or as the case may be, the letter, together with any other relevant documents or evidence to ▶<sup>9</sup>the First-tier Tribunal◀, and
- (b) the ▶<sup>9</sup>First-tier Tribunal◀ shall determine whether the form or the letter satisfies the requirement of ▶<sup>2</sup>Tribunal Procedure Rules◀.
- (9) Where-
- (a) a form is duly completed and returned or further particulars are sent after the expiry of the period of time allowed in accordance with paragraph (7), and
- (b) no decision has been made under paragraph (8) at the time the form or the further particulars are received by the Secretary of State [▶<sup>8</sup>or the Board◀],

<sup>1</sup>For tax credits purposes only, the word "and" at the end of sub-para. (d) deleted & sub-para. (dd) inserted by reg. 23(3) of S.I. 1999/270 as from 5.10.99.

<sup>2</sup>Para. (ddd) inserted in reg. 33(2) by Sch. 6, para. 6 of S.I. 2000/897 as from 3.4.00.

<sup>3</sup>Word in sub-para. 33(2)(e) substituted by reg. 11(a) of S.I. 2002/1379 as from 20.5.02.

<sup>4</sup>Words in para. (3) substituted by art. 123(5) of S.I. 2008/2683 as from 3.11.08.

<sup>5</sup>Words in square brackets inserted in reg. 33(4)-(6) for tax credits purposes only by reg. 23 of S.I. 1999/2570 as from 5.10.99.

<sup>6</sup>Words omitted and substituted in reg. 33(4), (5) & (6) by art. 123(6)-(11) of S.I. 2008/2683 as from 3.11.08.

<sup>7</sup>Para. (7) substituted by reg. 11(b) & (c) of S.I. 2002/1379 as from 20.5.02.

<sup>8</sup>Words in square brackets inserted in reg. 33(8) & (9) for tax credits purposes only by reg. 23 of S.I. 1999/2570 as from 5.10.99.

<sup>9</sup>Words omitted and substituted in reg. 33(8)(b) & (10) by art. 123(6)-(11) of S.I. 2008/2683 as from 3.11.08.

## Regs. 33-34

<sup>1</sup>Words omitted and substituted in reg. 33(8)(b) & (10) by art. 123(6)-(11) of S.I. 2008/2683 as from 3.11.08.

<sup>2</sup>Para. (10) substituted by reg. 11(b) & (c) of S.I. 2002/1379 as from 20.5.02.

<sup>3</sup>Reg. 34 deleted by reg. 4(10)(e) of S.I. 2013/2380 as from 28.10.13.

<sup>4</sup>Words in square brackets inserted in reg. 34 for tax credits purposes only by reg. 24 of S.I. 1999/2570 as from 5.10.99.

that form or further particulars shall also be forwarded to the ►<sup>1</sup>First-tier Tribunal which◄ shall take into account any further information or evidence set out in the form or further particulars.

►<sup>2</sup>(10) The Secretary of State or the Board may discontinue action on an appeal where the ►<sup>1</sup>notice of◄ appeal has not been forwarded to the ►<sup>1</sup>First-tier Tribunal◄ and the appellant or an authorised representative of the appellant has given notice that he does not wish the appeal to continue.◄

34. ►<sup>3</sup>◄

*Regulation 34 deleted but kept in force for saving and transitional provisions. See reg. 8 to S.I. 2013/2380 for when to apply.*

## Death of a party to an appeal

34.—(1) In any proceedings, on the death of a party to those proceedings (other than the Secretary of State [►<sup>4</sup>or the Board◄]), the Secretary of State [►<sup>4</sup>or the Board◄] may appoint such person as he thinks [►<sup>4</sup>or they think◄] fit to proceed with the appeal in the place of such deceased party.

(2) A grant of probate, confirmation or letters of administration to the estate of the deceased party, whenever taken out, shall have no effect on an appointment made under paragraph (1).

(3) Where a person appointed under paragraph (1) has, prior to the date of such appointment, taken any action in relation to the appeal on behalf of the deceased party, the effective date of appointment by the Secretary of State [►<sup>4</sup>or the Board◄] shall be the day immediately prior to the first day on which such action was taken.





## PART V

APPEAL TRIBUNALS FOR SOCIAL SECURITY  
CONTRACTING OUT OF PENSIONS  
VACCINE DAMAGE AND CHILD SUPPORT

<sup>1</sup>Regs. 35-37 omitted by art. 125(a) of S.I. 2008/2683 as from 3.11.08.

35.-37. ►<sup>1</sup>◄

## CHAPTER II

PROCEDURE IN CONNECTION WITH DETERMINATION OF APPEALS  
AND REFERRALS

<sup>2</sup>Reg. 38 omitted and words substituted & deleted in reg. 38A(1) by art. 125(a) of S.I. 2008/2683 as from 3.11.08.

38. ►<sup>2</sup>◄

<sup>3</sup>Reg. 38A inserted by reg. 2(4) of S.I. 1999/1670 as from 5.7.99.

►<sup>3</sup>Appeals raising for decision by officers of Inland Revenue

<sup>4</sup>Words in reg. 38A(1) substituted & inserted by reg. 12 of S.I. 2002/1379 as from 20.5.02.

**38A.**—(1) Where, ►<sup>4</sup>a person has appealed to ►<sup>2</sup>the First-tier Tribunal and it appears to the First-tier Tribunal, ◄◄ that an issue arises which by virtue of section 8 of the Transfer of Functions Act, falls to be decided by an officer of the Board, that tribunal ►<sup>2</sup>◄ shall—

(a) refer the appeal to the Secretary of State pending the decision of that issue by an officer of the Board; and

(b) require the Secretary of State to refer that issue to the Board;

and the Secretary of State to refer that issue accordingly.

(2) Pending the final decision of any issue which has been referred to the Board in accordance with paragraph (1) above, the Secretary of State may revise the decision under appeal, or make a further decision superseding that decision, in accordance with his determination of any issue other than one has been so referred.

(3) On receipt by the Secretary of State of the final decision of an issue which has been referred in accordance with paragraph (1) above, he shall consider whether the decision under appeal ought to be revised under section 9 or superseded under section 10, and—

(a) if so, revise it or, as the case may be, make further decision which supersedes it; or

(b) if not, forward the appeal to the ►<sup>5</sup>First-tier Tribunal◄ which shall determine the appeal in accordance with the final decision of the issue so referred.

(4) In paragraphs (2) and (3) above, “final decision” has the same meaning as in regulation 11A(3) and (4).◄

<sup>5</sup>Words substituted in reg. 38A(3)(b) and regs. 39 to 47 omitted by art. 125(b) & 126 of S.I. 2008/2683 as from 3.11.08.

39.-47. ►<sup>5</sup>◄

<sup>6</sup>Reg. 48 omitted by reg. (8) of S.I. 2004/3368 as from 21.12.04.

48. ►<sup>6</sup>◄

CHAPTER IV

49.-58. ►<sup>1</sup>◄

<sup>1</sup>Regs. 49-58 omitted by art. 126 of S.I. 2008/2683 as from 3.11.08.

►<sup>2</sup>Appeal to ►<sup>3</sup>the Upper Tribunal◄ by a partner

<sup>2</sup>Words in reg. 58(A) added by reg. 2(19) of S.I. 2005/337 as from 15.3.05.

**58A.** A partner within the meaning of section 2AA(7) of the Administration Act(a) (full entitlement to certain benefits conditional on work-focused interview for partner) may appeal to ►<sup>3</sup>the Upper Tribunal◄ under section 14 from a decision of ►<sup>3</sup>the First-tier Tribunal◄ in respect of a decision specified in section 2B(2A) and (6)(b) of the Administration Act◄

<sup>3</sup>Words substituted in heading to and paragraph to reg. 58A by art. 127(a) & (b) of S.I. 2008/2683 as from 3.11.08.

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(a) Section 2AA was inserted by the Employment Act 2002 (c. 22), section 49.

(b) Section 2B was inserted by the Welfare Reform and Pensions Act 1999 (c. 30), section 57; subsec. (2A) was inserted by the Employment Act 2002, Schedule 7, paragraph 9(4).



**PART VI**  
REVOCATIONS

**Revocations**

**59.**—(1) The Regulations listed in column (2) of Schedule 4 are hereby revoked to the extent specified in column (3) of that Schedule.

(2) Notwithstanding their revocation for particular purposes, the Regulations listed in column (2) of Schedule 4 shall continue to have full effect up to and including 28th November 1999 in relation to any benefit to which these Regulations do not apply for the time being by virtue of regulation 1(2).

(3) So much of any document as refers expressly or by implication to any regulation revoked by paragraph (1) shall, in so far as the context permits, for the purposes of these Regulations be treated as referring to the corresponding provision of these Regulations.

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

26th March 1999

*Angela Eagle*  
Parliamentary Under-Secretary of State,  
Department of Social Security

I concur

26th March 1999

*Irvine of Lairg*  
Lord Chancellor

## SCHEDULE 1

## Provisions conferring powers exercised in making these Regulations

	<i>Column (1) Provision</i>	<i>Column (2) Relevant Amendments</i>
Vaccine Damage Payments Act 1979(a)	Section 4(2) and (3)	The Act, Section 46.
Child Support Act 1991(b)	Section 7A(1)	The Act, Section 47.
	Section 16(6)	The Act, Section 40.
	Section 20(5) and (6)	The Act, Section 42.
	Section 28ZA(2)(b) and (4)(c)	The Act, Section 43.
	Section 28ZB(6)(c)	The Act, Section 43.
	Section 28ZC(7)	The Act, Section 44.
	Section 28ZD(1) and (2)	The Act, Section 44.
	Section 46B	The Act, Schedule 7, paragraph 44.
	Section 51(2)	The Act, Schedule 7, paragraph 46.
	Schedule 4A, paragraph 8	The Act, Schedule 7, paragraph 53.
Social Security Administration Act 1992(c)	Section 5(1)(hh)	The Act, Section 74.
	Section 159	The Act, Schedule 7, paragraph 95.
	Section 159A	The Act, Schedule 7, paragraph 96.
Pension Schemes Act 1993(d)	Section 170(3)	The Act, Schedule 7, paragraph 131.
Social Security (Recovery of Benefits) Act 1997(e)	Section 10	The Act, Schedule 7, paragraph 149.
Social Security Act 1998(f)	Section 11(5)	
	Section 6(3)	
	Section 7(6)	
	Section 9(1), (4) and (6)	
	Section 10(3) and (6)	
	Section 11(1)	
	Section 12(2) and (3), (6) and (7)	
	Section 14(10)(a) and (11)	
	Section 16(1) and Schedule 5	
	Section 17	
	Section 18(1)	
	Section 20	
	Section 21(1) to (3)	
	Section 22	
	Section 23	
	Section 24	
	Section 25(3)(b) and (5)(c)	
	Section 26(6)(c)	
	Section 28(1)	
	Section 31(2)	
	Section 79(1) and (3) to (7)	
	Section 84	
	Schedule 1, paragraph 7, 11 and 12	
	Schedule 2, paragraph 9	
	Schedule 3, paragraph 1, 4 and 9	

(a) 1979 c.17.

(b) 1991 c.48.

(c) 1992 c.5.

(d) 1993 c.48.

(e) 1997 c.27.

(f) 1998 c.14.



SCHEDULE 2

Regulation 27

Decisions against which no appeal lies

*Child Benefit*

1. A decision of the Secretary of State as to whether an educational establishment be recognised for the purposes of Part IX of the Contributions and Benefits Act.
2. A decision of the Secretary of State to recognise education provided otherwise than at a recognised educational establishment.
3. A decision of the Secretary of State made in accordance with the discretion conferred upon him by the following provisions of the Child Benefit (Residence and Persons Abroad) Regulations 1976(a)–
  - (a) regulation 2(2)(c)(iii) (decision relating to a child's temporary absence abroad);
  - (b) regulation 7(3) (certain days of absence abroad disregarded).
4. A decision of the Secretary of State made in accordance with the discretion conferred upon him by regulation 2(1) or (3) of the Child Benefit (General) Regulations 1976(b) (provisions relating to contributions and expenses in respect of a child).

*Claims and Payments*

- ▶<sup>1</sup>5. A decision, being a decision of the Secretary of State unless specified below as a decision of the Board, under the following provisions of the Claims and Payments Regulations–
- ▶<sup>2</sup>(a) regulation 4(3) or (3B)(c) (which partner should make a claim for income support or jobseeker's allowance);◀
  - ▶<sup>3</sup>(aa) regulation 41 (which partner should make a claim for an employment and support allowance)◀
    - (b) ▶<sup>2</sup>◀
  - ▶<sup>2</sup>(bb) regulation 4D(7)(d) (which partner should make a claim for state pension credit);◀
  - (c)-(e) ▶<sup>2</sup>◀
    - (f) regulation 7(e) (decision by the Secretary of State or the Board as to evidence and information required);
    - (g) regulation 9(f) and Schedule 1 (decision by the Secretary of State or the Board as to interchange of claims with claims for other benefits);
    - (h) regulation 11(g) (treating claim for maternity allowance as claim for incapacity benefit) ▶<sup>3</sup>or employment and support allowance◀;
    - (i) regulation 15(7)(h) (approving form of particulars required for determination of retirement pension questions in advance of claim);
    - (j) regulations 20 to 24(i) (decision by the Secretary of State or the Board as to the time or manner of payments);

<sup>1</sup>Para. 5 substituted by reg. 21 of S.I. 2002/1379 as from 20.5.02.

<sup>2</sup>Sub-paras. (b), (c), (d) and (e) omitted and sub-para. (a) & (bb) substituted by reg.

2(9)(a)-(c) of S.I. 2004/3368 as from 21.12.04.

<sup>3</sup>Sub-para. (aa) & words in (h) inserted into para. 5 by reg. 42(a) & (b) of S.I. 2008/1554 as from 27.10.08.

(a) S.I. 1976/963; the relevant amending instrument is S.I. 1976/1758.

(b) S.I. 1976/965; the relevant amending instrument is S.I. 1976/1758.

(c) Paragraph (3) was amended by S.I. 1996/2431 and paragraph (3B) was inserted by S.I. 1996/1460.

(d) Regulations 4D was inserted by S.I. 2002/3019.

(e) Regulation 7 was amended by S.I. 1995/2303, 1996/1460 and 1999/3108 and 2572.

(f) Regulation 9 was amended by S.I. 1992/247, 1996/1803 and 1999/2572.

(g) Regulation 11 was amended by S.I. 1994/2943 and 1997/793.

(h) Regulation 15(7) was amended by S.I. 1989/1642.

(i) Regulations 20 to 24 were amended by S.I. 1991/2741, 1992/1247, 1993/1113, 1994/2319, 2943 and 3196, 1996/672, 1460 and 2306, 1999/2358 and 2572 and 2000/1982 and 3120.

<sup>1</sup>Sub-para. (mm) inserted in para. 5 by reg. 2(b) of S.I. 2003/1581 as from 18.6.03.  
<sup>2</sup>Sub-para. (mn) inserted in para. 5 by reg. 42(c) of S.I. 2008/1554 as from 27.10.08.

- (k) regulation 25(1)(a) (intervals of payment of attendance allowance and disability living allowance where claimant is expected to return to hospital);
- (l) regulation 26(b) (manner and time of payment of income support);
- (m) regulation 26A(c) (time and intervals of payment of jobseeker's allowance);
- ▶<sup>1</sup>(mm) regulation 26B(d) (payment of state pension credit);◀
- ▶<sup>2</sup>(mn) regulation 26C (manner and time of payment of employment and support allowance);◀
- (n) regulation 27(1) and (1A)(e) (decision by the Board as to manner and time of payment of tax credits);
- (o) regulation 30(f) (decision by the Secretary of State or the Board as to claims or payments after death of claimant);
- (p) regulation 30A(g) (payment of arrears of joint-claim jobseeker's allowance where nominated person can no longer be traced);
- (q) regulation 31(h) (time and manner of payments of industrial injuries gratuities);
- (r) regulation 32(j) (decision by the Secretary of State or the Board as to information to be given when obtaining payment of benefit);
- (s) regulation 33(j) (appointments by the Secretary of State or the Board where person unable to act);
- (t) regulation 34(k) (decision by the Secretary of State or the Board as to paying another person on the beneficiary's behalf);
- (u) regulation 34A(1)(l) (payment, out of benefit, of mortgage interest to qualifying lender);
- (v) regulation 35(2)(m) (payment to third person of maternity expenses or expenses for heating in cold weather);
- (w) regulation 36(n) (decision by the Secretary of State or the Board to pay partner as alternative payee);
- (x) regulation 38(o) (decision by the Secretary of State or the Board as to the extinguishment of right to payment of sums by way of benefit where payment not obtained within the prescribed period, except a decision under paragraph (2A) (payment request after expiration of prescribed period));
- (y) regulations 42 to 46(p) (mobility component of disability living allowance and disability living allowance for children);
- (z) regulation 47(2) and (3)(q) (return of instruments of payment etc. to the Secretary of State or the Board).◀

(a) Regulation 25(1) was amended by S.I. 1991/2741 and 1996/1436.

(b) Regulation 26 was amended by S.I. 1988/522, 1989/136, 1993/1113, 1999/3178 and 2000/1596.

(c) Regulation 26A was inserted by S.I. 1996/1460 was amended by S.I. 2000/1596.

(d) Regulation 26B was inserted by S.I. 2002/3019.

(e) Regulation 27 was substituted by S.I. 1991/2741 and amended by S.I. 1993/2113, 1994/3196 and 1999/2572.

(f) Regulation 30 was substituted by S.I. 1988/1725, 1990/2208, 1991/2741, 1993/2113, 1994/2319, 1996/1460, 1999/2572 and 2000/1982.

(g) Regulation 30A was amended by S.I. 2001/1518.

(h) Regulation 31 was amended by S.I. 1999/3108 and 3178.

(i) Regulation 32 was amended by S.I. 1992/2595, 1995/2303, 1996/1460 and 1999/2572.

(j) Regulation 33 was amended by S.I. 1992/2595, 1995/2303, 1996/1460 and 1999/2572.

(k) Regulation 34 was substituted by S.I. 1992/2595, 1999/2572 and 2000/1982.

(l) Regulation 34A was inserted by S.I. 1992/1026.

(m) Regulation 35 was substituted by S.I. 1988/522 and paragraph (2) was amended by S.I. 1988/1725.

(n) Regulation 36 was amended by S.I. 1999/2358 and 2572.

(o) Regulation 38 was amended by S.I. 1989/1686, 1993/2113, 1996/672, 1999/1958, 2422, 2572 and 3178.

(p) Regulation 42 to 46 were amended by S.I. 1991/2741 and regulation 44 was amended by S.I. 1990/2208.

(q) Regulation 47 was substituted by S.I. 1994/3196 and amended S.I. 1999/2572.

▶<sup>1</sup>*Schemes that were Contracted-out Pension Schemes*◀

<sup>1</sup>Heading before para. 6 of Sch. 2 substituted by reg. 15 of S.I. 2016/200 as from 6.4.16.

6. A decision of the Secretary of State under section 109 of the Pension Schemes Act 1993(a) or any Order made under it (annual increase of guaranteed minimum pensions).

*Decisions depending on other cases*

7. A decision of the Secretary of State under section 25 or 26 (decisions and appeals depending on other cases).

*Deductions*

8. A decision which falls to be made by the Secretary of State under the Fines (Deductions from Income Support) Regulations 1992(b), other than ▶<sup>2</sup>a decision whether benefit is sufficient for a deduction to be made◀

<sup>2</sup>Words substituted in para. 8 of Sch. 2 by para. 2 of Sch. 19 to S.I. 1999/3178 as from 29.11.99.

9.—(1) Except in relation to a decision to which sub-paragraph (2) applies, any decision of the Secretary of State under the Community Charges (Deductions from Income Support) (No.2) Regulations 1990(c), the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989(d) or the Council Tax (Deductions from Income Support) Regulations 1993(e).

(2) This sub-paragraph applies to a decision—

- (a) whether there is an outstanding sum due of the amount sought to be deducted;
- (b) whether benefit is sufficient for a deduction to be made; and
- (c) on the priority to be given to any deduction.

*European Community Regulations*

10. An authorization given by the Secretary of State in accordance with article 22(1) or 55(1) of Council Regulation (EEC) No. 1408/71(f) on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community.

*Expenses*

11. A decision of the Secretary of State whether to pay expenses to any person under section 180 of the Administration Act.

*Guardian's Allowance*

12. A decision of the Secretary of State relating to the giving of a notice under regulation 5(8) of the Social Security (Guardian's Allowance) Regulations 1975(g) (children whose surviving parents are in prison or legal custody).

*Income Support*

13. A decision of the Secretary of State ▶<sup>3</sup>◀ made in accordance with paragraph (1) or (2) of regulation 13 (income support and social fund determinations on incomplete evidence).

<sup>3</sup>Words in para. 13 omitted by reg. 34(b) of S.I. 2000/1596 as from 19.6.00.

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(a) 1993 c. 48.

(b) S.I. 1992/2182.

(c) S.I. 1990/545.

(d) S.I. 1989/507.

(e) S.I. 1993/494.

(f) See Council Regulation (EEC) No. 1408/71, O.J. No. L149/2, 5.7.71 (O.J./S.E. 1971(II) page 416).

(g) S.I. 1975/515.

## Sch. 2

<sup>1</sup>Para. 13A inserted in Sch. 2 by reg. 21 of S.I. 2002/3019 as from 7.4.03.

▶<sup>1</sup>*State pension credit*

**13A.** A decision of the Secretary of State made in accordance with paragraph (1) or (3) of regulation 13 in relation to state pension credit (determination on incomplete evidence).◀

*Industrial Injuries Benefit*

**14.** A decision of the Secretary of State relating to the question whether—

- (a) disablement pension be increased under section 104 of the Contributions and Benefits Act (constant attendance); or
- (b) disablement pension be further increased under section 105 of the Contributions and Benefits Act (exceptionally severe disablement);

and if an increase is to be granted or renewed, the period for which and the amount at which it is payable.

**15.** A decision of the Secretary of State under regulation 2(2) of the Social Security (Industrial Injuries and Diseases) Miscellaneous Provisions Regulations 1986(a) as to the length of any period of interruption of education which is to be disregarded.

**16.** A decision of the Secretary of State to approve or not to approve a person undertaking work for the purposes of regulation 17 of the Social Security (General Benefit) Regulations 1982(b).

**17.** A decision of the Secretary of State as to how the limitations under Part VI of Schedule 7 to the Contributions and Benefits Act on the benefit payable in respect of any death are to be applied in the circumstances of any case.

*Invalid Vehicle Scheme*

**18.** A decision of the Secretary of State relating to the issue of certificates under regulation 13 of, and Schedule 2 to, the Social Security (Disability Living Allowance) Regulations 1991(c).

*Jobseeker's Allowance*

**19.—(1)** A decision of the Secretary of State under Chapter IV of Part II of the Jobseeker's Allowance Regulations as to the day and the time a claimant is to attend at a jobcentre.

(2) A decision of the Secretary of State as to the day of the week on which a claimant is required to provide a signed declaration under regulation 24(10) of the Jobseeker's Allowance Regulations.

(3) A decision of the Secretary of State ▶<sup>2</sup>◀ made in accordance with regulation 15 (Jobseeker's allowance determinations on incomplete evidence).

**19A.** ▶<sup>3</sup>◀

<sup>2</sup>Words omitted from para. 19(3) by reg. 34(c) of S.I. 2000/1596 as from 19.6.00.

<sup>3</sup>Para. 19A omitted by reg. 4(6) of S.I. 2010/424. See reg. 1(2) *ibid* for relevant commencement date.

*Payments on Account, Overpayments and Recovery*

**20.** A decision of the Secretary of State under the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988(d), except a decision of the Secretary of State under the following provisions of those Regulations—

- (a) S.I. 1986/1561.
- (b) S.I. 1982/1408; the relevant amending instruments are S.I. 1983/186 and S.I. 1986/1561.
- (c) S.I. 1991/2890.
- (d) S.I. 1988/664; the relevant amending instruments are S.I. 1988/668, 1991/2742, 1993/650 and 1996/1345.

- (a) regulation 3(1)(a) to offset any interim payment made in anticipation of an award of benefit;
- (b) regulation 4(1) as to the overpayment of an interim payment;
- (c) regulation 5 as to the offsetting of a prior payment against a subsequent award;
- (d) regulation 11(1) as to whether a payment in excess of entitlement has been credited to a bank or other account;
- (e) regulation 13 as to the sums to be deducted in calculating recoverable amounts;
- (f) regulation 14(1) as to the treatment of capital to be reduced;
- (g) regulation 19 determining a claimant's protected earnings; and
- (h) regulation 24 whether a determination as to a claimant's protected earnings is revised or superseded.

*Persons Abroad*

21. A decision of the Secretary of State made under—

- (a) regulation 2(1)(a) of the Social Security Benefit (Persons Abroad) Regulations 1975(a) whether to certify that it is consistent with the proper administration of the Contributions and Benefits Act that a disqualification under section 113(1)(a) of that Act should not apply;
- (b) regulation 9(4) or (5) of those Regulations whether to allow a person to avoid disqualification for receiving benefit during a period of temporary absence from Great Britain longer than that specified in the regulation.

*Reciprocal Agreements*

22. A decision of the Secretary of State made in accordance with an Order made under section 179 of the Administration Act (reciprocal agreements with countries outside the United Kingdom).

*Social Fund Awards*

23. A decision of the Secretary of State under section 78 of the Administration Act relating to the recovery of social fund awards.

*Suspension*

24. A decision of the Secretary of State relating to the suspension of a relevant benefit or to the payment of such a benefit which has been suspended under Part III.

*Up-rating*

25. A decision of the Secretary of State relating to the up-rating of benefits under Part X of the Administration Act.

▶<sup>1</sup>26. Any decision treated as a decision of the Secretary of State whether or not to waive or defer a work-focused interview. ◀

▶<sup>2</sup>*Loss of benefit*

27.—(1) In the circumstances referred to in sub-paragraph (2), a decision of the Secretary of State that a sanctionable benefit as defined in section 6A(1) of the Social

<sup>1</sup>Para. 26 inserted in Sch. 2 by Sch. 6, para. 7 of S.I. 2000/897 as from 3.4.00.

<sup>2</sup>Para. 27 substituted by reg. 3(5) of S.I. 2010/1160 as from 1.4.10.

(a) S.I. 1975/563; the relevant amending instruments are S.I. 1976/409, 1977/342 and 1679, 1979/463 and 1432, 1981/1157, 1982/388 and 1738, 1983/186, 1984/1303, 1986/1545 and 1561, 1988/435, 1989/1642, 1990/40 and 621, 1991/2742, 1992/1700 and 2595, 1994/268 and 1832, 1995/829 and 1996/207 and 1345.



SOCIAL SECURITY AND CHILD SUPPORT (DECISIONS AND APPEALS)  
REGULATIONS 1999

Security Fraud Act 2001 is not payable (or is to be reduced) pursuant to section 6B, 7, 8 or 9 of that Act as a result of—

- (a) a convictions for one or more benefit offences in one set of proceedings;
- (b) an agreement to pay a penalty under section 115A of the Administration Act (penalty as alternative to prosecution) or section 109A of the Social Security Administration (Northern Ireland) Act 1992 (the corresponding provision for Northern Ireland) in relation to a benefit offence;
- (c) a caution in respect of one or more benefit offences; or
- (d) a conviction for one or more benefit offences in each of two sets of proceedings, the later offence or offence being committed within the period of 5 years after the date of any of the convictions for a benefit offence in the earlier proceedings.

(2) The circumstances are that the only ground of appeal is that any of the convictions was erroneous, or that the offender (as defined in section 6B(1) of the Social Security Fraud Act 2001) did not commit the benefit offence in respect of which there has been an agreement to pay a penalty or a caution has been accepted.◀

▶◀

<sup>1</sup>Sch. 3 omitted by para. 128 of Sch. 1 to S.I. 2008/2683 as from 3.11.08.

<sup>2</sup>Sch. 3A inserted by reg. 35 of S.I. 2000/1596 as from 19.6.00.

<sup>3</sup>Words in heading to Sch. 3A substituted by reg. 2(21)(a) of S.I. 2005/337 as from 15.3.05.

▶<sup>2</sup>SCHEDULE 3A

Regulation 7(1)(a)

Date ▶<sup>3</sup>from which superseding decision takes effect◀ where a claimant is in receipt of income support or jobseeker's allowance.

*Income Support*

1. Subject to paragraphs 2 to 6, where the amount of income support payable under an award is changed by a superseding decision made on the ground of a change of circumstances, that superseding decision shall take effect—

- (a) where income support is paid in arrears, from the first day of the benefit week in which the relevant change of circumstances occurs or is expected to occur; or
- (b) where income support is paid in advance, from the date of the relevant change of circumstances, or the day on which the relevant change of circumstances is expected to occur, if either of those days is the first day of the benefit week and otherwise from the next following such day, and

for the purposes of this paragraph any period of residence in temporary accommodation under arrangements for training made under section 2 of the Employment and Training Act 1973(a) or section 2 of the Enterprise and New Towns (Scotland) Act 1990(b) for a period which is expected to last for seven days or less shall not be regarded as a change of circumstances.

2. In the cases set out in paragraph 3, the superseding decision shall take effect from the day on which the relevant change of circumstances occurs or is expected to occur.

3. The cases referred to in paragraph 2 are where—

- (a) income support is paid in arrears and entitlement ends, or is expected to end, for a reason other than that the claimant no longer satisfies the provisions of section 124(1)(b) of the Contributions and Benefits Act(c);
- ▶<sup>4</sup>(aa) income support is being paid from 8th April 2002 to persons who, immediately before that day, had a preserved right for the purposes of income support regulations;◀
- (b) a child or young person referred to in regulation 16(6) of the Income Support Regulations(d) (child in care of local authority or detained in custody) lives, or is expected to live, with the claimant for part only of the benefit week;

(a) 1973 c. 50.

(b) 1990 c. 35.

(c) 1992 c. 4.

(d) S.I. 1987/1967.

<sup>4</sup>Sub-para. 3(aa) inserted by reg. 3(a) of S.I. 2002/398 as from 8.4.02.

- (c) ►<sup>1</sup>◄
- (d) a person referred to in paragraph 1, 2, 3 or 18 of Schedule 7 to the Income Support Regulations—
- (i) ceases, or is expected to cease, to be a patient; or
  - (ii) a member of his family ceases, or is expected to cease, to be a patient, in either case for a period of less than a week;
- (e) a person referred to in paragraph 8 of Schedule 7 to the Income Support Regulations—
- (i) ceases to be a prisoner; or
  - (ii) becomes a prisoner;
- (f) a person to whom section 126 of the Contributions and Benefits Act (trade disputes) applies—
- (i) becomes incapable of work by reason of disease or bodily or mental disablement; or
  - (ii) enters the maternity period (as defined in section 126(2) of that Act) or the day is known on which that person is expected to enter the maternity period;
- (g) during the currency of the claim, a claimant makes a claim for a relevant social security benefit—
- (i) the result of which is that his benefit week changes; or
  - (ii) under regulation 13 of the Claims and Payment Regulations and an award of that benefit on the relevant day for the purposes of that regulation means that his benefit week is expected to change.
- <sup>2</sup>(h) regulation 9 of the Social Security (Disability Living Allowance) Regulations 1991(a) (persons in certain accommodation other than hospitals) applies, or ceases to apply, to the claimant for a period of less than one week.◄

<sup>1</sup>Sub-para. 3(c) omitted by reg. 2(21)(b) of S.I. 2005/337 as from 15.3.05.

<sup>2</sup>Sub-para. (h) added to para. 3 by reg. 3(3) of S.I. 2006/2377 as from 2.10.06.

4. A superseding decision made in consequence of a payment of income being treated as paid on a particular day under regulation 31(1)(b) ►<sup>3</sup>, (2) or (3)◄ or 39C(3) of the Income Support Regulations (date on which income is treated as paid) shall take effect from the day on which that payment is treated as paid.

<sup>3</sup>Words in para. 4 substituted by reg. 5 of S.I. 2003/1731 as from 8.8.03.

5. Where—

- (a) it is decided upon supersession on the ground of a relevant change of circumstances ►<sup>4</sup>or change specified in paragraph 12 and 13◄ that the amount of income support is, or is to be, reduced; and
- (b) the Secretary of State certifies that it is impracticable for a superseding decision to take effect from the day prescribed in ►<sup>4</sup>paragraph 12 or◄ the preceding paragraphs of this Schedule (other than where paragraph 3(g) or 4 applies),

<sup>4</sup>Words in para. 5(a) & (b) inserted by reg. 2(21)(c) of S.I. 2005/337 as from 15.3.05.

that superseding decision shall take effect—

- (i) where the relevant change has occurred, from the first day of the benefit week following that in which that superseding decision is made; or
- (ii) where the relevant change is expected to occur, from the first day of the benefit week following that in which that change of circumstances is expected to occur.

6. Where—

- (a) a superseding decision (“the former supersession”) was made on the ground of a relevant change of circumstances in the cases set out in paragraphs 3(b) to (g); and
- (b) that superseding decision is itself superseded by a subsequent decision because the circumstances which gave rise to the former supersession cease to apply (“the second change”), that subsequent decision shall take effect from the date of the second change.

(a) S.I. 1991/2890.

*Jobseeker's Allowance*

7. Subject to paragraphs 8 to 11, where a decision in respect of a claim for jobseeker's allowance is superseded on the ground that there has been or there is expected to be, a relevant change of circumstances, the supersession shall take effect from the first day of the benefit week (as defined in regulation 1(3) of the Jobseeker's Allowance Regulations) in which that relevant change of circumstances occurs or is expected to occur.

8. Where the relevant change of circumstances giving rise to the supersession is that—

- (a) entitlement to jobseeker's allowance ends, or is expected to end, for a reason other than that the claimant no longer satisfies the provisions of section 3(1)(a) <sup>1</sup>or 3A(1)(a) <sup>2</sup>of the Jobseekers Act(a); or
- <sup>2</sup>(aa) jobseekers allowance is being paid from 8th April 2002 to persons who, immediately before that day, had a preserved right for the purposes of the Jobseeker's Allowance Regulations; <sup>3</sup>
- (b) a child or young person who is normally in the care of a local authority or who is detained in custody lives, or is expected to live, with the claimant for a part only of the benefit week; or
- (c) <sup>3</sup>
- (d) the partner of the claimant or a member of his family ceases, or is expected to cease, to be a hospital in-patient for a period of less than a week <sup>1</sup>; or
- (e) a joint-claim couple ceases to be married or an unmarried couple, <sup>4</sup>

<sup>1</sup>Words in para. 8(a) inserted and sub-para. (e) inserted by reg. 4(c) of S.I. 2001/518 as from 19.3.01.

<sup>2</sup>Sub-para. (aa) inserted in para. 8 by reg. 3(b) of S.I. 2002/398 as from 8.4.02.

<sup>3</sup>Para. 8(c) omitted by reg. 2(21)(b) of S.I. 2005/337 as from 15.3.05.

the supersession shall take effect from the date that the relevant change of circumstances occurs or is expected to occur.

9. Where the relevant change of circumstances giving rise to a supersession is any of those specified in paragraph 8, and, in consequence of those circumstances ceasing to apply, a further superseding decision is made, that further superseding decision shall take effect from the date that those circumstances ceased to apply.

10. Where, under the provisions of regulation 96 or 102C(3) of the Jobseeker's Allowance Regulations(b), income is treated as paid on a certain date and that payment gives rise, or is expected to give rise, to a relevant change of circumstance resulting in a supersession, that supersession shall take effect from that date.

<sup>4</sup>Words in para. 11 inserted & para. 12 & 13 added to Sch. 3A by reg. 2(21)(d) & (e) of S.I. 2005/337 as from 15.3.05.

11. Where a relevant change of circumstances <sup>4</sup>or change specified in paragraphs 12 and 13 <sup>4</sup>occurs which results, or is expected to result, in a reduced award of jobseeker's allowance then, if the Secretary of State is of the opinion that it is impracticable for a supersession to take effect in accordance with <sup>4</sup>paragraph 12 or <sup>4</sup>the preceding paragraphs of this Schedule, the supersession shall take effect from the first day of the benefit week following that in which the relevant change of circumstances occurs. <sup>4</sup>

**<sup>4</sup>Changes other than changes of circumstances**

12. Where an amount of income support or jobseeker's allowance payable under an award is changed by a superseding decision specified in paragraph 13 the superseding decision shall take effect—

- (a) in the case of a change in respect of income support, from the day specified in paragraph 1(a) or (b) for a change of circumstances; and
- (b) in the case of a change in respect of jobseeker's allowance, from the day specified in paragraph 7 for a change of circumstances.

13. The following are superseding decisions for the purposes of paragraph 12—

- (a) a decision which supersedes a decision specified in regulation 6(2)(b) to (e); and
- (b) a superseding decision which would, but for paragraph 12, take effect from a date specified in regulation 7(5) to (7), (12) to (16), (18) to (20), (22), (24) and (33). <sup>4</sup>

(a) 1995 c. 18.

(b) S.I. 1996/207; the relevant amending instrument is S.I. 1998/1174.

►<sup>1</sup>SCHEDULE 3B

DATE ON WHICH CHANGE OF CIRCUMSTANCES TAKES EFFECT  
WHERE CLAIMANT ENTITLED TO STATE PENSION CREDIT

<sup>1</sup>Sch. 3B inserted by reg. 22 of S.I. 2002/3019 as from 7.4.03.

1. Where the amount of state pension credit payable under an award is changed by a superseding decision made on the ground that there has been a relevant change of circumstances, that superseding decision shall take effect from the following days—

(a) for the purpose only of determining the day on which an assessed income period begins under section 9 of the State Pension Credit Act, from the day following the day on which the last previous assessed income period ended; and

►<sup>2</sup>(b) except as provided in the following paragraphs—

(i) where state pension credit is paid in advance, from the day that change occurs or is expected to occur if either of those days is the first day of a benefit week but if it is not from the next following such day;

(ii) where state pension credit is paid in arrears, from the first day of the benefit week in which that change occurs or is expected to occur.◀

<sup>2</sup>In Sch. 3B, para. 1(b) substituted by reg. 8(a) of S.I. 2011/674 as from 11.4.11.

►<sup>3</sup>2. Subject to paragraph 3, where the relevant change is that—

(a) the claimant's income or the income of the claimant's partner (other than deemed income from capital) has changed;

(b) the claimant or the claimant's partner becomes entitled to—

(i) disability living allowance (middle or higher rate care component); ►<sup>3</sup>◀

(ii) attendance allowance; ►<sup>4</sup>◀

►<sup>3</sup>(iii) personal independence payment (standard or enhanced rate daily living component under section 78 of the Welfare Reform Act 2012) or◀

►<sup>4</sup>(iv) armed forces independence payment under the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011; or◀

(c) the claimant or the claimant's partner again receives ►<sup>3</sup>any of the allowance or payments◀ mentioned in sub-paragraph(b) above immediately after the end of the period specified in paragraph 2A,

the superseding decision shall take effect on the first day of the benefit week in which that change occurs or if that is not practicable in the circumstances of the case, on the first day of the next following benefit week.◀

<sup>3</sup>Sch. 3B, para. 2 substituted, words in para. 2 omitted, sub-para. (b)(iii) & words in (c) substituted and para. 2A inserted by reg. 5 of S.I. 2013/443 as from 2.4.13 and 8.4.13.

<sup>4</sup>Words in Sch. 3B(2)(b)(ii) omitted & sub-para. (b)(iv) inserted by para. 15(2)(a)-(b) of Sch. to S.I. 2013/591 as from 8.4.13.

►<sup>3</sup>2A. A period specified for the purposes of paragraph 2 is a period when the claimant or the claimant's partner is maintained free of charge while undergoing medical or other treatment as an in-patient in—

(a) a hospital or similar institution under—

(i) the National Health Service 2006(a);

(ii) the National Health Service (Wales) Act 2006(b); or

(iii) the National Health Service (Scotland) 1978(c); or

(b) a hospital or similar institution maintained or administered by the Defence Council.◀

3. Paragraph 2 shall not apply where the only relevant change is that working tax credit under the Tax Credits Act 2002(d) becomes payable or becomes payable at a higher rate.

4. A superseding decision shall take effect from the day the change of circumstances occurs or is expected to occur if—

(a) the person ceases to be or becomes a prisoner, and for this purpose "prisoner" has the same meaning as in regulation 1(2) of the State Pension Credit Regulations; or

(a) 2006 c. 41.

(b) 2006 c. 42.

(c) 1978 c. 29.

(d) 2002 c. 21.

- (b) whilst entitled to state pension credit a claimant is awarded another social security benefit and in consequence of that award his benefit week changes or is expected to change.

<sup>1</sup>Para. 5 substituted by reg. 5(4) of S.I. 2003/2274 as from 6.10.03.

►<sup>1</sup>5. In a case where the relevant circumstance is that the claimant ceased to be a patient, if he becomes a patient again in the same benefit week, the superseding decision in respect of ceasing to be a patient shall take effect from the first day of the week in which the change occurred.◀

<sup>2</sup>Words substituted in para. 6 of Sch. 3B by reg. 3(9) of S.I. 2007/2470 as from 24.9.07.  
<sup>3</sup>Paras. 7 & 8 added to Sch. 3B by reg. 5(4) of S.I. 2006/832 as from 10.4.06.

6. In paragraph 5, “patient” means a person (other than a prisoner) who is regarded as receiving free in-patient treatment within the meaning of the ►<sup>2</sup>Social Security (Hospital In-Patients) Regulations 2005(a).◀

<sup>4</sup>Words substituted in para. 7 and para. 11 inserted in Sch. 3B by reg. 4(4)(a) & (b) of S.I. 2010/510. See reg. 1 to this S.I. for relevant effective date.

►<sup>3</sup>7. ►<sup>4</sup>Subject to ►<sup>5</sup>paragraph 8A◀, where◀ an amount of state pension credit payable under an award is changed by a superseding decision specified in paragraph 8 the superseding decision shall take effect from the day specified in paragraph 1(b).

<sup>5</sup>In Sch. 3B, words in para. 7 substituted, para. 8A substitutes paras. 9 & 10 by reg. 8(a)-(d) of S.I. 2011/674 as from 11.4.11.

8. The following are superseding decisions for the purposes of paragraph 7–

- (a) a decision which supersedes a decision specified in regulation 6(2)(b) to (ee) and (m); and  
(b) a superseding decision which would, but for paragraphs 2 and 7, take effect from a date specified in regulation 7(5) to (7), (12) to (16) and (29C).◀

►<sup>5</sup>8A. Where the relevant change of circumstances is the death of the claimant, the superseding decision shall take effect on the first day of the benefit week next following the date of death.◀

►<sup>9</sup>–<sup>10</sup>.◀

►<sup>4</sup>11. In this Schedule, “benefit week” means–

- (a) where state pension credit is paid in advance, the period of 7 days beginning on the day on which, in the claimant’s case, that benefit is payable;  
(b) where state pension credit is paid in arrears, the period of 7 days ending on the day on which, in the claimant’s case, that benefit is payable.◀

### ►<sup>6</sup>SCHEDULE 3C

<sup>6</sup>Sch. 3C inserted by reg. 43 of S.I. 2008/1554 as from 27.10.03.

#### DATE FROM WHICH CHANGE OF CIRCUMSTANCES TAKES EFFECT WHERE CLAIMANT ENTITLED TO EMPLOYMENT AND SUPPORT ALLOWANCE

1. Subject to paragraphs 2 to 7, where the amount of an employment and support allowance payable under an award is changed by a superseding decision made on the ground of a change of circumstances, that superseding decision shall take effect from the first day of the benefit week in which the relevant change of circumstances occurs or is expected to occur.

2. In the cases set out in paragraph 3, the superseding decision shall take effect from the day on which the relevant change of circumstances occurs or is expected to occur.

3. The cases referred to in paragraph 2 are where–

- (a) entitlement ends, or is expected to end, for a reason other than that the claimant no longer satisfies the provisions of paragraph 6(1)(a) of Schedule 1 to the Welfare Reform Act;  
(b) a child or young person referred to in regulation 156(6)(d) or (h) of the Employment and Support Allowance Regulations (child in care of local authority or detained in custody) lives, or is expected to live, with the claimant for part only of the benefit week;  
(c) a person referred to in paragraph 12 of Schedule 5 to the Employment and Support Allowance Regulations–  
(i) ceases, or is expected to cease, to be a patient; or  
(ii) a member of the person’s family ceases, or is expected to cease, to be a patient,

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(a) S.I. 2005/3360.



in either case for a period of less than a week;

- (d) a person referred to in paragraph 3 of Schedule 5 to the Employment and Support Allowance Regulations—
  - (i) ceases to be a prisoner; or
  - (ii) becomes a prisoner;
- (e) during the currency of the claim a claimant makes a claim for a relevant social security benefit—
  - (i) the result of which is that his benefit week changes; or
  - (ii) in accordance with regulation 13 of the Claims and Payments Regulations and an award of that benefit on the relevant day for the purposes of that regulation means that his benefit week is expected to change.

4. A superseding decision made in consequence of a payment of income being treated as paid on a particular day under regulation 93 of the Employment and Support Allowance Regulations (date on which income is treated as paid) shall take effect from the day on which that payment is treated as paid.

5. Where—

- (a) it is decided upon supersession on the ground of a relevant change of circumstances or change specified in paragraphs 9 and 10 that the amount of an employment and support allowance is, or is to be, reduced; and
- (b) the Secretary of State certifies that it is impracticable for a superseding decision to take effect from the day prescribed in paragraph 9 or the preceding paragraphs of this Schedule (other than where paragraph 3(e) or 4 applies),

that superseding decision shall take effect—

- (i) where the relevant change has occurred, from the first day of the benefit week following that in which that superseding decision is made; or
- (ii) where the relevant change is expected to occur, from the first day of the benefit week following that in which that change of circumstances is expected to occur.

6. Where—

- (a) a superseding decision (“the former supersession”) was made on the ground of a relevant change of circumstances in the cases set out in paragraph 3(b) to (e); and
- (b) that superseding decision is itself superseded by a subsequent decision because the circumstances which gave rise to the former supersession cease to apply (“the second change”),

that subsequent decision shall take effect from the date of the second change.

7. In the case of an employment and support allowance decision where there has been a limited capability for work determination, where—

- (a) the Secretary of State is satisfied that, in relation to a limited capability for work determination, the claimant or payee failed to notify an appropriate office of a change of circumstances which regulations under the Administration Act required him to notify; and
- (b) the claimant or payee, as the case may be, could reasonably have been expected to know that the change of circumstances should have been notified,

the superseding decision shall take effect—

- (i) from the date on which the claimant or payee, as the case may be, ought to have notified the change of circumstances; or
- (ii) if more than one change has taken place between the date from which the decision to be superseded took effect and the date of the superseding decision, from the date on which the first change ought to have been notified.



**Changes other than changes of circumstances****8.** Where—

- (a) the Secretary of State supersedes a decision made by an appeal tribunal or a Commissioner on the grounds specified in regulation 6(2)(c)(i) (ignorance of, or mistake as to, a material fact);
- (b) the decision to be superseded was more advantageous to the claimant because of the ignorance or mistake than it would otherwise have been; and
- (c) the material fact—
  - (i) does not relate to the limited capability for work determination embodied in or necessary to the decision; or
  - (ii) relates to a limited capability for work determination embodied in or necessary to the decision and the Secretary of State is satisfied that at the time the decision was made the claimant or payee, as the case may be, knew or could reasonably have been expected to know of it and that it was relevant,

the superseding decision shall take effect from the first day of the benefit week in which the decision of the appeal tribunal or the Commissioner took effect or was to take effect.

**9.** Where an amount of an employment and support allowance payable under an award is changed by a superseding decision specified in paragraph 10 the superseding decision shall take effect from the day specified in paragraph 1 for a change of circumstances.

**10.** The following are superseding decisions for the purposes of paragraph 9—

- (a) a decision which supersedes a decision specified in regulation 6(2)(b) and (d) to (ee); and
- (b) a superseding decision which would, but for paragraph 9, take effect from a date specified in regulation 7(6), (7), (12), (13), (17D) to (17F), and (33).◀



*For cases where the savings provision in reg. 1(4) & 11 of S.I. 2012/2785 apply, Sch. 3D has been reproduced below.*

<sup>1</sup>Sch. 3D omitted by reg. 6(8) of S.I. 2012/2785 as from 10.12.12.

## ►<sup>2</sup>SCHEDULE 3D

<sup>2</sup>Sch. 3D inserted by reg. 4(16) of S.I. 2009/396 as from 6.4.09.

### EFFECTIVE DATES FOR SUPERSESSION OF CHILD SUPPORT DECISIONS

1. This Schedule sets out the exceptions to the general rule in section 17(4) of the Child Support Act (that is the rule that a supersession decision takes effect from the beginning of the maintenance period in which it is made or, where applicable, the beginning of the maintenance period in which an application for a supersession is made).

Expected change

2. Where the ground for the supersession decision is that a relevant change of circumstances is expected to occur or that a ground for a variation is expected to occur, the decision takes effect from the beginning of the maintenance period in which that change or that ground is expected to occur.

Decision backdated to when the change occurred

3. Where the ground for the supersession decision is that a relevant change of circumstances of the following kind has occurred, the decision takes effect from the beginning of the maintenance period in which the change occurred—

- (a) a qualifying child dies or ceases to be a qualifying child;
- <sup>3</sup>(aa) a relevant other child dies or ceases to be a relevant other child;◄
- (b) the person with care ceases to be a person with care in relation to a qualifying child;
- (c) the person with care, the non-resident parent or a qualifying child ceases to be habitually resident in the United Kingdom; ►<sup>3</sup>◄
- (d) paragraph 4(2) of Schedule 1 to the Child Support Act (flat rate for a non-resident parent whose partner is a non-resident parent) begins or ceases to apply. ►<sup>3</sup>; or
- (e) the non-resident parent begins or ceases to receive a benefit mentioned in regulation 4(1) of the Maintenance Calculations and Special Cases Regulations (flat rate) or begins or ceases to be a person who receives, or whose partner receives, a benefit referred to in regulation 4(2) of those Regulations.◄

<sup>3</sup>Sch. 3D paras. 3(aa), (e) & 3A inserted, words in para. 3(c) & para. 4 deleted by reg. 2(4)(a)-(c) of S.I. 2011/1464 as from 4.7.11.

►<sup>3</sup>3A. In paragraph 3, the relevance to the day on which a person begins or ceases to receive a benefit is to the day on which entitlement to the benefit commences or ends, as the case may be.◄

Non-resident parent or partner on or off benefit

4. ►<sup>3</sup>◄

New qualifying child

5. Paragraphs 6 and 7 apply where the ground for the supersession is that there is a new qualifying child in relation to the non-resident parent.

6. Where there is a new qualifying child in relation to the same person with care—

- (a) if the application is made by the non-resident parent, the decision takes effect from the beginning of the maintenance period in which the application is made; and
- (b) if the application is made by the person with care the decision takes effect from the beginning of the maintenance period in which notification of the application is given to the non-resident parent.

7. Where there is a new qualifying child in relation to a different person with care and an application for a maintenance calculation has been made under section 4 or section 7 of the Child Support Act, the decision takes effect from the beginning of the maintenance period in which notification of the calculation is given to the non-resident parent.

Series of changes waiting to be actioned

8. Where a decision is superseded on application and, in relation to that decision, a maintenance calculation is made to which paragraph 15 of Schedule 1 to the Child Support Act applies, the effective date of the calculation or calculations is the beginning of the maintenance period in which the change of circumstances to which the calculation relates occurred or is expected to occur and where it occurred before the date of the application for the supersession and was notified after that date, ►<sup>1</sup>the beginning of the maintenance period in which that application was made.◄

Words substituted in para.  
8 by reg. 2(4)(d) of S.I.  
2011/1464 as from 4.7.11.

Own initiative decision

9. Unless paragraph 4 applies, where a decision is superseded in a case where the Commission is required to give notice under regulation 7C, the decision takes effect from the first day of the maintenance period which includes the date which is 28 days after the date on which the Commission has given notice (oral or written) to the relevant persons under that regulation.

Supersession of tribunal decision made pending outcome of a related appeal

10. Where, in accordance with section 28ZB(5) of the Child Support Act (appeals involving issues that arise on appeal in other cases), the Commission makes a decision superseding the decision of the First-tier Tribunal or the Upper Tribunal, the superseding decision takes effect from the beginning of the maintenance period following the date on which the decision of the First-tier Tribunal or, as the case may be, the Upper Tribunal would have taken effect had it been decided in accordance with the determination of the Upper Tribunal or the court in the appeal referred to in section 28ZB(1)(b).

Supersession of tribunal decision made in error due to misrepresentation etc.

11. Where—

- (a) a decision made by the First-tier Tribunal or the Upper Tribunal is superseded on the ground that it was erroneous due to misrepresentation of, or that there was a failure to disclose, a material fact; and
- (b) the Commission is satisfied that the decision was more advantageous to the person who misrepresented or failed to disclose that fact than it would otherwise have been but for that error,

the superseding decision takes effect from the date on which the decision of the First-tier Tribunal or, as the case may be, the Upper Tribunal took, or was to take, effect.

Supersession of look alike case where law reinterpreted by the Upper Tribunal or a court

12. Any decision made under section 17 of the Child Support Act in consequence of a determination which is a relevant determination for the purposes of section 28ZC (cases of error) of that Act takes effect from the date of the relevant determination.◄

SCHEDULE 4

Regulation 59

REVOCATIONS

<i>Column 1 Statutory Instrument Number</i>	<i>Column 2 Statutory Instrument</i>	<i>Column 3 Provision Revoked</i>
1979/432	The Vaccine Damage Payments Regulations 1979	Part III
1992/2641	The Child Support Appeal Tribunals (Procedure) Regulations 1992	The whole Regulations
1995/311	The Social Security (Incapacity for Work) (General) Regulations 1995	Regulations 19 and 20 to 22
1995/1801	The Social Security (Adjudication) Regulations 1995	The whole Regulations
1996/182	The Social Security (Adjudication) and Child Support Amendment Regulations 1996	Regulation 2
1996/425	The Social Security (Industrial Injuries and Diseases) (Miscellaneous Amendments) Regulations 1996	Regulation 2
1996/1518	The Social Security (Adjudication) Amendment Regulations 1996	The whole Regulations
1996/2306	The Social Security (Claims and Payments and Adjudication) Amendment Regulations 1996	Regulations 8 and 9
1996/2450	The Social Security (Adjudication) and Child Support Amendment (No. 2) Regulations 1996	Regulations 2 to 13
1996/2659	The Social Security (Adjudication) Amendment (No. 2) Regulations 1996	The whole Regulations
1997/65	The Income-Related Benefits and Jobseeker's Allowance (Miscellaneous Amendments) Regulations 1997	Regulation 16
1997/793	The Social Security (Miscellaneous Amendments) (No. 2) Regulations 1997	Regulations 1(2)(a) and 8 to 17
1997/810	The Social Security (Industrial Injuries) (Miscellaneous Amendments) Regulations 1997	Regulations 2, 3 and 4
► <sup>1</sup> 1997/955◀	The Social Security (Adjudication) and Commissioners Procedure and Child Support Commissioners (Procedure) Amendment Regulations 1997	In regulation 1(2), the definition of "the Adjudication Regulations" and regulations 2 to 6

<sup>1</sup>1997/955 substituted for 1997/995 by reg. 7 of S.I. 1999/1623 as from 5.7.99.

SOCIAL SECURITY AND CHILD SUPPORT (DECISIONS AND APPEALS)  
REGULATIONS 1999

<i>Column 1 Statutory Instrument Number</i>	<i>Column 2 Statutory Instrument</i>	<i>Column 3 Provision Revoked</i>
1997/1839	The Social Security (Attendance Allowance and Disability Living Allowance) (Miscellaneous Amendments) Regulations 1997	In regulation 1(2) the definition of “the Adjudication Regulations” and regulation 4
1997/2237	The Social Security (Recovery of Benefits) (Appeals) Regulations 1997	The whole Regulations
1997/2305	The Social Security (Miscellaneous Amendments) (No. 4) Regulations 1997	Regulation 4

### EXPLANATORY NOTE

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

These Regulations are made by virtue of, or in consequence of, provisions in the Social Security Act 1998 (c. 14) (“the Act”) and supplement changes introduced by that Act to the decision-making process for social security and related matters. The Regulations also provide for the procedural rules and other requirements of a new unified appeals system introduced by the Act for social security, contracting out of pensions, child support and vaccine damage.

The Regulations are made before the end of the period of six months beginning with the coming into force of the relevant provisions in the Act and are therefore exempted from the requirement in section 172(1) of the Social Security Administration Act 1992 (c. 5) to refer proposals to make these Regulations to the Social Security Advisory Committee and are made without reference to that Committee. The Regulations are made after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992 (c. 53).

Part I of the Regulations contains provisions relating to commencement, citation and interpretation as well as service of notices or documents.

Part II of the Regulations makes provision for decisions by the Secretary of State in social security and related matters. Chapters I and II provide for the circumstances in which the Secretary of State may revise or supersede decisions, when such decisions take effect and related procedural rules. Chapter III contains miscellaneous provisions relating to decisions of the Secretary of State in social security, including certain relevant requirements formerly contained in the Social Security (Adjudication) Regulations 1995 and other related regulations which are now revoked. It also includes provision in relation to industrial injuries benefits for the Secretary of State to seek advice from a medical practitioner.

Part III of the Regulations makes provision for the suspension and termination of benefit and for dealing with decisions where there are related appeals or decisions.

Part IV concerns rights of appeal and the procedure for bringing appeals. Chapter I makes provision for additional persons to have a right of appeal, for decisions (other than those in the Act) against which there is no right of appeal and decisions where there is a right of appeal. It also provides procedural rules for bringing appeals.

Part V makes provision for appeal tribunals for social security, contracting out of pensions, vaccine damage and child support. Chapter I provides for the panel from which appeal tribunal members are drawn to include people with specified qualifications, for requirements relating to the composition of appeal tribunals and the assignment of clerks to tribunals. Chapters II to V of that Part provide for further matters relating to appeals and referrals. Chapter II makes provision for procedural requirements in the determination of appeals and referrals, including withdrawal of appeals or referrals, medical examinations and witnesses. Chapter III provides for the striking out of certain appeals and related procedures. Chapter IV provides for procedures at oral hearings and Chapter V makes provision relating to the decisions and reports of appeal tribunals and applications for leave to a Commissioner.

Part VI and Schedule 4 provide for revocations.

These Regulations do not impose a charge on business.



