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STATUTORY INSTRUMENTS

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**2005 No. 337**

**The Social Security, Child Support and Tax Credits  
(Miscellaneous Amendments) Regulations 2005**

**Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999**

2.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999 <sup>M1</sup> shall be amended in accordance with this regulation.

(2) In regulation 3 (revision of decisions)—

(a) after paragraph (7) <sup>M2</sup> (award of another relevant benefit) insert —

“(7ZA) Where—

- (a) the Secretary of State makes a decision under section 8 or 10 awarding income support or state pension credit to a claimant (“the original award”);
- (b) the claimant has a non-dependant within the meaning of regulation 3 of the Income Support Regulations or a person residing with him within the meaning of paragraph 1(1)(a)(ii), (b)(ii) or (c)(iii) of Schedule I to the State Pension Credit Regulations (“the non-dependant”);
- (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; 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 or an additional amount for severe disability becomes applicable to him under paragraph 2(2)(a) of Schedule I to the State Pension Credit Regulations,

the Secretary of State may revise the original award.”,

(b) after paragraph (7A) <sup>M3</sup> insert—

“(7B) A decision under regulation 22A <sup>M4</sup> of the Income Support Regulations (reduction 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.

(7C) Where a person's entitlement to income support is terminated because of a determination that he is not incapable of work and he subsequently appeals the decision that embodies that determination and is entitled to income support under regulation 22A of

the Income Support Regulations, the decision to terminate entitlement may be revised.”, and

- (c) in paragraph (9)(a) <sup>M5</sup> after “since the decision had effect” insert “ or, in the case of an advance award under regulation 13 <sup>M6</sup>, 13A or 13C <sup>M7</sup> of the Claims and Payments Regulations, since the decision was made, ”.

(3) In regulation 4 <sup>M8</sup> (late application for a revision), in paragraph (3)(b) after “revised” add—  
 “, but if the applicant has requested a statement of the reasons in accordance with 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) In regulation 6 (supersession of decisions)—

- (a) in paragraph (2)(a)(i) <sup>M9</sup> after “since the decision had effect” insert “ or, in the case of an advance award under regulation 13 <sup>M10</sup>, 13A or 13C <sup>M11</sup> of the Claims and Payments Regulations, since the decision was made ”,

(b) after paragraph (2)(e) <sup>M12</sup> insert—

“(ee) is an original award within the meaning of regulation 3(7ZA) and sub-paragraphs (a) to (c) and (d)(ii) of regulation 3(7ZA) apply but not sub-paragraph (d)(i);”,

(c) after paragraph (2)(m) <sup>M13</sup> add—

“(n) is a decision by an appeal tribunal 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 appeal tribunal subsequently determines that he is incapable of work.”, and

(d) omit paragraph (6)(b) (person in receipt of income support or a jobseeker's allowance temporarily absent from a nursing home or residential care home).

(5) In regulation 7 (date from which a decision superseded under section 10 takes effect)—

- (a) in paragraph (2) <sup>M14</sup>, after “since the decision had effect” insert “ or, in the case of an advance award, since the decision was made ”,

(b) after paragraph (6) insert—

“(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,

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.”,

- (c) in paragraph (7) <sup>M15</sup> after “6(2)(e)” and “6(2)(e)(ii)” insert “ or (ee) ”, and

(d) after paragraph (33) <sup>M16</sup> add—

“(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).”.

(6) In regulation 28 (notice of decision against which appeal lies), in paragraph (2) after “request” add “ or as soon as practicable afterwards. ”.

(7) In regulation 30 (appeal against a decision which has been replaced or revised), in paragraph (2) after sub-paragraph (d) add—

“(dd) it reverses a decision under section 29(2) that an accident is not an industrial accident;”.

<sup>F1</sup>(8) .....

<sup>F1</sup>(9) .....

<sup>F1</sup>(10) .....

<sup>F1</sup>(11) .....

<sup>F1</sup>(12) .....

<sup>F1</sup>(13) .....

<sup>F1</sup>(14) .....

<sup>F1</sup>(15) .....

<sup>F1</sup>(16) .....

<sup>F1</sup>(17) .....

<sup>F1</sup>(18) .....

(19) In Chapter V of Part V, after regulation 58 insert—

**“Appeal to a Commissioner by a partner**

**58A.** A partner within the meaning of section 2AA(7) of the Administration Act <sup>M17</sup> (full entitlement to certain benefits conditional on work-focused interview for partner) may appeal to a Commissioner under section 14 from a decision of an appeal tribunal in respect of a decision specified in section 2B(2A) and (6) <sup>M18</sup> of the Administration Act.”.

<sup>F2</sup>(20) .....

(21) In Schedule 3A (date on which change of circumstances takes effect in certain cases where a claimant is in receipt of income support or jobseeker's allowance)—

(a) in the Schedule heading for “on which change of circumstances takes effect in certain cases” substitute “ from which superseding decision takes effect ”,

(b) omit paragraphs 3(c) and 8(c) (cases where the claimant or his partner enters a nursing home or residential care home for not more than 8 weeks),

(c) in paragraph 5—

(i) in sub-paragraph (a) after “change of circumstances” insert “ or change specified in paragraphs 12 and 13 ”, and

(ii) in sub-paragraph (b) after “prescribed in” insert “ paragraph 12 or ”,

(d) in paragraph 11—

(i) after “Where a relevant change of circumstances” insert “ or change specified in paragraphs 12 and 13 ”, and

- (ii) after “accordance with” insert “ paragraph 12 or ”, and  
 (e) after paragraph 11 add—

**“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 (ee); 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).”.

**Textual Amendments**

- F1** Reg. 2(8)-(18) revoked (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 2** (with arts. 3(3)(g), 4)  
**F2** Reg. 2(20) revoked (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 2** (with arts. 3(3)(g), 4)

**Marginal Citations**

- M1** [S.I. 1999/991](#).  
**M2** Paragraph (7) was substituted by [S.I.2002/428](#).  
**M3** Paragraph (7A) was inserted by [S.I. 2002/1379](#).  
**M4** Regulation 22A was inserted by [S.I. 1996/206](#) and was amended by [S.I. 1999/2422](#) and 3109, 2000/590 and 2001/3767.  
**M5** Paragraph (9) was substituted by [S. I. 1999/2677](#) and amended by [S.I. 2003/1050](#).  
**M6** Regulation 13 was amended by [S. I. 1991/2284](#) and 2741, 1992/247, 1994/2319, 1999/2422, 2572 and 3178 and 2002/3019.  
**M7** Regulations 13A and 13C were inserted by [S. I. 1991/2741](#) and amended by [S.I. 1999/2860](#) and 3178.  
**M8** Relevant amendments to regulation 4 were made by [S.I. 2000/3185](#).  
**M9** Sub-paragraph (a)(i) was amended by [S.I. 2003/1050](#).  
**M10** Regulation 13 was amended by [S. I. 1991/2284](#) and 2741, 1992/247, 1994/2319, 1999/2422, 2572 and 3178 and 2002/3019.  
**M11** Regulations 13A and 13C were inserted by [S. I. 1991/2741](#) and amended by [S.I. 1999/2860](#) and 3178.  
**M12** Sub-paragraph (e) was substituted by [S.I. 2000/1596](#) and amended by [S.I. 2002/428](#).  
**M13** Sub-paragraph (m) was inserted by [S.I. 2003/2274](#).  
**M14** Paragraph (2) was amended by [S.I. 1999/1623](#) and 3178, 2000/1596, 2002/3019 and 2003/1050.  
**M15** Paragraph (7) was substituted by [S.I. 2002/428](#).  
**M16** Paragraph (33) was added by [S.I. 2003/1050](#).  
**M17** Section 2AA was inserted by the [Employment Act 2002 \(c. 22\)](#), **section 49**.

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**Changes to legislation:** *There are currently no known outstanding effects for the The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005, Section 2. (See end of Document for details)*

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**M18** Section 2B was inserted by the [Welfare Reform and Pensions Act 1999 \(c. 30\), section 57](#); subsection (2A) was inserted by the Employment Act 2002, Schedule 7, paragraph 9(4).

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005, Section 2.