
STATUTORY INSTRUMENTS

2008 No. 1554

The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008

PART 4

Administrative Provisions

CHAPTER 1

The Social Security (Claims and Payments) Regulations 1987

Claims for employment and support allowance

13. After regulation 4F ^{M1} (making a claim after attaining the qualifying age: date of claim) insert—

“Making a claim for employment and support allowance by telephone

4G.—(1) A claim (“a telephone claim”) for an employment and support allowance may be made by telephone call to the telephone number specified by the Secretary of State.

(2) Where the Secretary of State, in any particular case, directs that the person making the claim approves a written statement of his circumstances, provided for the purpose by the Secretary of State, a telephone claim is not a valid claim unless the person complies with the direction.

(3) A telephone claim is defective unless the Secretary of State is provided, during that telephone call, with all the information he requires to determine the claim.

(4) Where a telephone claim is defective, the Secretary of State is to advise the person making it of the defect and of the relevant provisions of regulation 6(1F) relating to the date of claim.

(5) If the person corrects the defect within one month, or such longer period as the Secretary of State considers reasonable, of the date the Secretary of State last drew attention to the defect, the Secretary of State must treat the claim as if it had been properly made in the first instance.

Making a claim for employment and support allowance in writing

4H.—(1) A claim (“a written claim”) for employment and support allowance need only be made in writing if the Secretary of State so directs in any particular case but a written claim may be made whether or not a direction is issued.

(2) A written claim must be made on a form approved for the purpose by the Secretary of State and be made in accordance with the instructions on the form.

(3) A claim in writing may also be made at the offices of—

(a) a local authority administering housing benefit or council tax benefit;

- (b) a person providing to such an authority services relating to housing benefit or council tax benefit; or
- (c) a person authorised to exercise the function of a local authority relating to housing benefit or council tax benefit,

if the Secretary of State has arranged with the local authority or person specified in sub-paragraph (b) or (c) for them to receive claims in accordance with this paragraph.

(4) Where a written claim is made in accordance with paragraph (3), on receipt of that claim the local authority or other person specified in that paragraph—

- (a) must forward the claim to the Secretary of State as soon as reasonably practicable;
- (b) may receive information or evidence relating to the claim supplied by—
 - (i) the person making, or who has made, the claim; or
 - (ii) other persons in connection with the claim,

and shall forward it to the Secretary of State as soon as reasonably practicable;

- (c) may obtain information or evidence relating to the claim from the person who has made the claim, but not any medical information or evidence except for that which the claimant must provide in accordance with instructions on the form, and must forward the information or evidence to the Secretary of State as soon as reasonably practicable;
- (d) may record information or evidence relating to the claim supplied or obtained in accordance with sub-paragraph (b) or (c) and may hold the information or evidence (whether as supplied or obtained or as recorded) for the purpose of forwarding it to the Secretary of State; and
- (e) may give information and advice with respect to the claim to the person who makes, or who has made, the claim.

(5) Paragraphs (4)(b) to (e) apply in respect of information, evidence and advice relating to any claim whether the claim is made in accordance with paragraph (3) or otherwise.

(6) If a written claim is defective when first received, the Secretary of State is to advise the person making it of the defect and of the provisions of regulation 6(1F) relating to the date of claim.

(7) If that person corrects the defect so that the claim then satisfies the requirements of paragraph (2) and does so within one month, or such longer period as the Secretary of State considers reasonable, of the date the Secretary of State last drew attention to the defect, the claim must be treated as having been properly made in the first instance.

Claims for employment and support allowance: supplemental

41.—(1) Where a person who is a member of a couple may be entitled to an income-related employment and support allowance the claim for an employment and support allowance must be made by whichever member of the couple they agree should claim or, in default of agreement, by such one of them as the Secretary of State may choose.

(2) Where one member of a couple (“the former claimant”) is entitled to an income-related employment and support allowance under an award but a claim for an employment and support allowance is made by the other member of the couple and the Secretary of State considers that the other member is entitled to an income-related employment and support allowance, then, if both members of the couple confirm in writing that they wish the claimant to be the other member, the former claimant's entitlement terminates on the day the partner's claim is actually made or, if earlier, is treated as made.

(3) In calculating any period of one month for the purposes of regulations 4G and 4H, any period commencing on a day on which a person is first notified of a decision in connection with his failure to take part in a work-focused interview and ending on a day on which he was notified that that decision has been revised so that the decision as revised is that he did take part is to be disregarded.

(4) Employment and support allowance is a relevant benefit for the purposes of section 7A of the 1992 Act.”.

Marginal Citations

M1 [Regulation 4F](#) was inserted by [S.I. 2002/3019](#).

Changes to legislation:

There are currently no known outstanding effects for the The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008, Section 13.