

STATUTORY INSTRUMENTS

**1987 No. 1968**

**The Social Security (Claims and Payments) Regulations 1987**

**PART V**

**<sup>F1</sup> ... EXTINGUISHMENT**

**Textual Amendments**

**F1** Words in Pt. 5 heading revoked (for specified purposes and with application in accordance with reg. 4(12), reg. 2(1)(b)(i)-(iii) of the amending S.I.; (5.10.1999) for further specified purposes, reg. 1(2) of the amending S.I. (S.I. 1999/2572); (29.11.1999) for further specified purposes, reg. 1(2) of the amending S.I. (S.I. 1999/3178)) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), reg. 4(9), **Sch. 9 para. 5**; (S.I. 1999/2572, reg. 16); (S.I. 1999/3178), reg. 3(1)(a), Sch. 6 para. 11(with reg. 3(1)(b), Schs. 21-23)

**Suspension**

**<sup>F2</sup>37.** .....

**Textual Amendments**

**F2** Regs. 37-37B revoked (for specified purposes and with application in accordance with reg. 4(12), reg. 2(1)(b)(i)-(iii) of the amending S.I.; 5.10.1999 for further specified purposes, reg. 1(2) of the amending S.I. (S.I. 1999/2572); (29.11.1999) for further specified purposes, reg. 1(2) of the amending S.I. (S.I. 1999/3178)) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), reg. 4(9), **Sch. 9 para. 5**; (S.I. 1999/2572, reg. 17)

**Suspension in identical cases**

**<sup>F2</sup>37A.** .....

**Textual Amendments**

**F2** Regs. 37-37B revoked (for specified purposes and with application in accordance with reg. 4(12), reg. 2(1)(b)(i)-(iii) of the amending S.I.; 5.10.1999 for further specified purposes, reg. 1(2) of the amending S.I. (S.I. 1999/2572); (29.11.1999) for further specified purposes, reg. 1(2) of the amending S.I. (S.I. 1999/3178)) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), reg. 4(9), **Sch. 9 para. 5**; (S.I. 1999/2572, reg. 17)

**Withholding payment of arrears of benefit**

<sup>F2</sup>37B. ....

**Textual Amendments**

**F2** Regs. 37-37B revoked (for specified purposes and with application in accordance with reg. 4(12), reg. 2(1)(b)(i)-(iii) of the amending S.I.; 5.10.1999 for further specified purposes, reg. 1(2) of the amending S.I. (S.I. 1999/2572); (29.11.1999) for further specified purposes, reg. 1(2) of the amending S.I. (S.I. 1999/3178)) by [The Social Security Act 1998 \(Commencement No. 8, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/1958\)](#), reg. 4(9), [Sch. 9 para. 5](#); (S.I. 1999/2572, reg. 17)

**Extinguishment of right to payment of sums by way of benefit where payment is not obtained within the prescribed period**

38.—(1) [<sup>F3</sup>Subject to paragraph (2A), the right to payment of any sum by way of benefit shall be extinguished] where payment of that sum is not obtained within the period of 12 months from the date on which the right is to be treated as having arisen; and for the purposes of this regulation the right shall be treated as having arisen—

- (a) in relation to any such sum contained in an instrument of payment which has been given or sent to the person to whom it is payable, or to a place approved by the Secretary of State [<sup>F4</sup>or the Board] for collection by him (whether or not received or collected as the case may be)—
  - (i) on the date of the said instrument of payment, or
  - (ii) if a further instrument of payment has been so given or sent as a replacement, on the date of the last such instrument of payment;

<sup>F5</sup>[<sup>F6</sup>(aa)] .....

- (b) in relation to any such sum to which sub-paragraph (a) does not apply, where notice is given (whether orally or in writing) or is sent that the sum contained in the notice is available for collection on the date of the notice or, if more than one such notice is given or sent, the date of the first such notice;

[<sup>F7</sup>(bb) in relation to any such sum which [<sup>F8</sup>the Secretary of State has] arranged to be paid by means of direct credit transfer into a bank or other account, on the due date for payment of the sum;]

- (c) in relation to any such sum to which [<sup>F9</sup>none of (a), <sup>F10</sup>...[<sup>F11</sup> (b) or (bb)] apply], on such date as the Secretary of State determines [<sup>F12</sup>or the Board determine].

(2) The giving or sending of an instrument of payment under paragraph 1(a), or of a notice under paragraph (1)(b), shall be effective for the purposes of that paragraph, even where the sum contained in that instrument, or notice, is more or less than the sum which the person concerned has the right to receive.

[<sup>F13</sup>(2A) Where a question arises whether the right to payment of any sum by way of benefit has been extinguished by the operation of this regulation and the [<sup>F14</sup>Secretary of State] is satisfied that—

- (a) [<sup>F14</sup>he] first received [<sup>F15</sup>or the Board have first received] written notice requesting payment of that sum after the expiration of 12 months; and
- (b) from a day within that period of 12 months and continuing until the day the written notice was given, there was good cause for not giving the notice; and

[<sup>F16</sup>(c) <sup>F17</sup>... either—

- (i) <sup>F17</sup>... no instrument of payment has been given or sent to the person to whom it is payable and <sup>F17</sup>... no payment has been made under the provisions of regulation 21 ([<sup>F18</sup>direct] credit transfer); or
- (ii) <sup>F17</sup>... such instrument has been produced to [<sup>F14</sup>the Secretary of State][<sup>F19</sup>or them] and <sup>F17</sup>... no further instrument has been issued as a replacement,]

<sup>F16</sup>(d) . . . . .

the period of 12 months shall be extended to the date on which the [<sup>F14</sup>Secretary of State] decides that question, and this regulation shall accordingly apply as though the right to payment had arisen on that date.]

(3) For the purposes of paragraph (1) the date of an instrument of payment is the date of issue of that instrument or, if the instrument specifies a date which is the earliest date on which payment can be obtained on the instrument and which is later than the date of issue, that date.

(4) This regulation shall apply to a person authorised or appointed to act on behalf of a beneficiary as it applies to a beneficiary.

(5) This regulation shall not apply to the right to a single payment of any industrial injuries gratuity or in satisfaction of a person's right to graduated retirement benefit.

**Textual Amendments**

- F3** Words in reg. 38(1) substituted (9.10.1989) by [The Social Security \(Medical Evidence, Claims and Payments\) Amendment Regulations 1989 \(S.I. 1989/1686\)](#), regs. 1, **7(2)**
- F4** Words in reg. 38(1) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), 20, **Sch. Pt. I**
- F5** Reg. 38(1)(aa) omitted (10.4.2006) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2006 \(S.I. 2006/832\)](#), regs. 1(2), **2(11)(a)**
- F6** Reg. 38(1)(aa) inserted (4.4.1996) by [The Social Security \(Claims and Payments Etc.\) Amendment Regulations 1996 \(S.I. 1996/672\)](#), regs. 1, **2(5)(a)**
- F7** Reg. 38(1)(bb) inserted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **7(8)(a)**
- F8** Words in reg. 38(1)(bb) substituted (1.4.2012) by [The Social Security \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/757\)](#), regs. 1(4), **15(3)**
- F9** Words in reg. 38(1)(c) substituted (4.4.1996) by [The Social Security \(Claims and Payments Etc.\) Amendment Regulations 1996 \(S.I. 1996/672\)](#), regs. 1, **2(5)(b)**
- F10** Word in reg. 38(1)(c) omitted (10.4.2006) by virtue of [The Social Security \(Miscellaneous Amendments\) \(No. 2\) Regulations 2006 \(S.I. 2006/832\)](#), regs. 1(2), **2(11)(b)**
- F11** Words in reg. 38(1)(c) substituted (18.3.2005) by [The Social Security, Child Support and Tax Credits \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/337\)](#), regs. 1, **7(8)(b)**
- F12** Words in reg. 38(1)(c) added (with effect in accordance with reg. 1(2) of the amending S.I.) by [The Tax Credits \(Claims and Payments\) \(Amendment\) Regulations 1999 \(S.I. 1999/2572\)](#), regs. 1(1), **18(a)**
- F13** Reg. 38(2A) inserted (9.10.1989) by [The Social Security \(Medical Evidence, Claims and Payments\) Amendment Regulations 1989 \(S.I. 1989/1686\)](#), regs. 1, **7(3)**
- F14** Words in reg. 38(2A) substituted (for specified purposes and with application in accordance with reg. 3(8) of the amending S.I., 29.11.1999 for further specified purposes and with application in accordance with reg. 3(1) of the amending S.I.) by [The Social Security Act 1998 \(Commencement No. 9, and Savings and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/2422\)](#), reg. 3(1), **Sch. 7 para. 6**; S.I. 1999/3178, Sch. 6 para. 13(a) (with reg. 3(1)(b), Schs. 21-23

- F15** Words in reg. 38(2A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Claims and Payments) (Amendment) Regulations 1999 (S.I. 1999/2572), regs. 1(1), **18(b)(i)**
- F16** Reg. 38(2A)(c) substituted for Reg. 38(2A)(c)-(d) (27.9.1993) by The Social Security (Claims and Payments) Amendment (No. 3) Regulations 1993 (S.I. 1993/2113), regs. 1(2), **3(8)**
- F17** Words in reg. 38(2A) omitted (for specified purposes and with application in accordance with reg. 3(8) of the amending S.I., 29.11.1999 for further specified purposes and with application in accordance with reg. 3(1) of the amending S.I.) by virtue of The Social Security Act 1998 (Commencement No. 9, and Savings and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/2422), reg. 3(1), **Sch. 7 para. 6**; S.I. 1999/3178, Sch. 6 para. 13(b) (with reg. 3(1)(b), Schs. 21-23)
- F18** Word in reg. 38(2A)(c)(i) substituted (8.4.2003) by The Social Security (Claims and Payments and Miscellaneous Amendments) (No. 2) Regulations 2002 (S.I. 2002/2441), regs. 1(1)(c), **10** (with reg. 15)
- F19** Words in reg. 38(2A) inserted (with effect in accordance with reg. 1(2) of the amending S.I.) by The Tax Credits (Claims and Payments) (Amendment) Regulations 1999 (S.I. 1999/2572), regs. 1(1), 23, **Sch. Pt. IV**

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security (Claims and Payments) Regulations 1987, PART V.