
STATUTORY INSTRUMENTS

1987 No. 1970

SOCIAL SECURITY

**The Social Security (Adjudication)
Amendment (No. 2) Regulations 1987**

<i>Made</i>	- - - -	<i>20th November 1987</i>
<i>Laid before Parliament</i>		<i>20th November 1987</i>
<i>Coming into force</i>		
<i>for the purposes only of the determination of claims and questions relating to —</i>		
<i>income support</i>		<i>23rd November 1987</i>
<i>family credit</i>		<i>1st January 1988</i>
<i>for all other purposes</i>		<i>11th April 1988</i>

The Secretary of State for Social Services, in exercise of powers set out in the Schedule to this instrument and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that the proposals to make these Regulations should not be referred to it⁽¹⁾, hereby makes the following Regulations: —

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Adjudication) Amendment (No. 2) Regulations 1987 and shall come into force —

- (a) for the purposes only of the determination of claims and questions relating to —
 - (i) income support on 23rd November 1987,
 - (ii) family credit on 1st January 1988;
- (b) for all other purposes on 11th April 1988.

(2) Unless the context otherwise requires, any reference in these Regulations to a numbered or lettered Part, Section, regulation or Schedule is a reference to the Part, Section, regulation or Schedule bearing that number or letter in the Social Security (Adjudication) Regulations 1986⁽²⁾.

(1) See section 10(2)(b) of the Social Security Act 1980 (c. 30) and section 61(1)(b) of the Social Security Act 1986 (c. 50).
(2) S.I. 1986/2218.

Amendment of regulation 1

2. In regulation 1 (interpretation) —

(a) in paragraph (2) —

- (i) in the definition of “the Acts”, the references to the Family Income Supplements Act 1970 and the Supplementary Benefits Act 1976 shall be omitted;
- (ii) in the definition of “claimant”, after the words “a beneficiary under the award or” there shall be inserted the words “a person”;
- (iii) after the definition of “full-time chairman” these shall be inserted the following definition —

““income support” means income support under Part II of the 1986 Act and includes personal expenses addition, special transitional addition and transitional addition as defined in the Income Support (Transitional) Regulations 1987(3);”
- (iv) in the definition of “party to the proceedings” in sub-paragraph (a) the words in parenthesis shall be omitted and for sub-paragraph (d) there shall be substituted the following sub-paragraph —

“(d) in any other proceedings, the adjudication officer and the Secretary of State except in proceedings in which the adjudication officer or the Secretary of State is the adjudicating authority;”;

(b) for paragraph (3) there shall be substituted the following paragraph —

“(3) Where, by any provision of the Acts or of these Regulations —

- (a) any notice or other document is required to be given or sent to any office, that notice or document shall be treated as having been so given or sent on the day that it is received in that office; and
- (b) any notice or other document is required to be given or sent to any person, that notice or document shall, if sent by post to that person’s last known or notified address, be treated as having been sent on the day that it was posted.”.

Amendment of regulation 19

3. After paragraph (1) of regulation 19 (other questions for determination by the Secretary of State) there shall be inserted the following paragraph —

“(1A) The Secretary of State may review any determination given by him on any question referred to in paragraph (1) above if —

- (a) new facts have been brought to his notice, or
- (b) he is satisfied that the determination —
 - (i) was given in ignorance of some material fact,
 - (ii) was based on a mistake as to some material fact, or
 - (iii) was erroneous in point of law.”.

Amendment of regulation 20

4. Paragraph (3) of regulation 20 (notification of decisions) shall be omitted.

Amendment of regulation 31

5. In paragraph (4) of regulation 31 (medical appeal tribunals), the words from “in such form” to “Secretary of State” shall be omitted.

Amendment of regulation 56

6. In regulation 56 (reference of medical questions for report) —
- (a) the second paragraph (2) shall be re-numbered paragraph (3) and paragraph (3) shall be re-numbered paragraph (4);
 - (b) in paragraph (1), for the words “regulation 54 and of regulation 57(2)” there shall be substituted the words “the following paragraphs of this regulation and of regulation 59(2)”;
 - (c) in paragraph (2)(b)(iii), for the reference to “regulation 1(2) of the Family Income Supplements (General) Regulations 1980” there shall be substituted a reference to “section 84(1) of the 1986 Act”.

Amendment of regulation 59

7. In paragraph (2) of regulation 59 (appeal or reference to a medical board), for the reference to “regulation 56(3)” there shall be substituted a reference to “regulation 56(4)”.

Amendment of Part IV Section C

8. For Part IV Section C there shall be substituted the following —

“SECTION C — INCOME SUPPORT

Notification of decisions in income support cases

63.—(1) Subject to paragraphs (2), (3) and (4), the decision of an adjudication officer on any claim or question relating to income support shall be notified in writing to the claimant who shall at the same time be notified of his right to request a statement of the reasons for that decision and of his right of appeal to an appeal tribunal.

(2) Where, under arrangements made by the Secretary of State either throughout or in any part of Great Britain, income support is payable together with a benefit under the 1975 Act(4), notice of the aggregate amount so payable shall be notice for the purpose of paragraph (1).

(3) Written notice shall not be required of a determination awarding benefit which is implemented by a cash payment if in all the circumstances it would be impracticable to give such a notice.

(4) Written notice shall not be required of a determination terminating entitlement to income support if the reason for the termination is already known to the claimant or it is otherwise reasonable in the circumstances not to give such notice.

(5) So far as may be practicable, and subject to paragraph (6), where a claimant is notified of a decision under paragraph (1) or (2) the Secretary of State shall also give or send him a written notice of assessment showing —

(4) See also section 66(2) of the Social Security Pensions Act 1975 (c. 60).

- (a) the total amounts of the personal allowances, family premium, other premiums and housing costs determined under Part IV of the Income Support (General) Regulations 1987⁽⁵⁾ as are appropriate in his case; and
 - (b) the income taken into account; and
 - (c) any personal expenses addition, special transitional addition and transitional addition payable under the Income Support (Transitional) Regulations 1987⁽⁶⁾.
- (6) Paragraph (5) shall not apply to any determination —
- (a) that income support is not payable for any reason other than that the claimant's income exceeds the applicable amount;
 - (b) made on review under regulation 69, either under paragraph (3) of that regulation or where in other cases under that regulation the Secretary of State considers a written notice of assessment unnecessary;
 - (c) in respect of a claimant to whom section 23(8) of the 1986 Act (return to work after trade dispute) applies.
- (7) If, within the time limited by regulation 3 and Schedule 2 for the bringing of an appeal against an adjudication officer's decision, the claimant requests a statement of the reasons for that decision he shall be given such a statement in writing and shall again be informed of his right of appeal.

Income support and social fund questions not immediately determinable

64.—(1) Where on consideration of a claim or question relating to income support or to payment of maternity expenses from the Social Fund under Part III of the 1986 Act it appears to an adjudication officer that the claimant's entitlement to, or the rate or amount of, such benefit depends on the determination of any of the questions mentioned in paragraph (3), and he is satisfied that the question cannot be immediately determined, he shall proceed to determine the claim or question on the assumption that the determination of the question so mentioned will be adverse to the claimant.

(2) Without prejudice to the power of an adjudication officer to refer any claim or question to an appeal tribunal under section 99(2) of the 1975 Act⁽⁷⁾, and notwithstanding the provisions of section 100 of that Act, on an appeal to an appeal tribunal in any case where the adjudication officer has applied the provisions of paragraph (1) in respect of any of the questions mentioned in paragraph (3), the tribunal shall not determine the last mentioned question until it has been determined by an adjudication officer.

- (3) The questions referred to in paragraphs (1) and (2) are —
- (a) whether in relation to any person the applicable amount falls to be reduced or disregarded to any extent by virtue of section 23(3) of the 1986 Act (persons affected by trade disputes);
 - (b) whether regulation 22 of the Income Support (General) Regulations 1987⁽⁸⁾ (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification) applies to a person by virtue of paragraph (4)(c)(iii) of that regulation and, if so, the period of its application by virtue of paragraph (6)(c) of that regulation;
 - (c) whether by virtue of regulation 9(1) of the Income Support (General) Regulations 1987 (persons treated as available for employment) a person is to be treated as

(5) S.I. 1987/1967.

(6) S.I. 1987/1969.

(7) Section 99(2) was substituted by the Social Security Act 1986 (c. 50) Schedule 5 paragraph 5.

(8) S.I. 1987/1967.

available for employment and whether by virtue of regulation 10(1)(b), (d) or (g) of those Regulations he is not to be so treated;

- (d) whether for the purposes of regulation 12 of the Income Support (General) Regulations 1987 (relevant education) a person is by virtue of that regulation to be treated as receiving relevant education;
- (e) whether for the purposes of regulation 43 of the Income Support (General) Regulations 1987 (notional earnings of seasonal workers) a person is a seasonal worker and, if he is, the duration of —
 - (i) his last period of normal employment,
 - (ii) his off-season,

except that this sub-paragraph shall not apply in respect of a person who was, during his last period of employment, a self-employed earner (other than a share fisherman);

- (f) whether for the purposes of regulation 10(1)(a) of the Income Support (General) Regulations 1987 (circumstances in which claimants are not to be treated as available for employment) after a situation in any suitable employment has been properly notified to a claimant as vacant or about to become vacant he has without good cause refused or failed to apply for that situation or refused to accept that situation when offered to him.”.

Amendment of regulation 65

9.—(1) In regulation 65 (review of decisions involving payment or increase of benefit other than industrial injuries benefit, mobility allowance, supplementary benefit or family income supplement) —

- (a) in paragraph (1), for the words preceding “is revised so as to make benefit payable” there shall be substituted the words —

“Review of decisions involving payment or increase of benefit other than industrial injuries benefit, mobility allowance, income support or family credit

65.—(1) Where on a review a decision relating to benefit other than industrial injuries benefit, mobility allowance, income support or family credit”;

- (b) in paragraph (3), for the words from the beginning to “in respect of any part of the” there shall be substituted the words “Subject to regulation 72, no sum on account of benefit shall, in a case to which paragraph (2) applies, be paid to any person”.

Amendment of regulation 69

10. For regulation 69 there shall be substituted the following regulation —

“Review in income support cases

69.—(1) Subject to regulation 72, a determination on a claim or question relating to income support shall not be revised on review under section 104 of the 1975 Act so as to make income support payable or to increase the amount of income support payable in respect of —

- (a) any period which falls more than 12 months before the date on which the review was requested or, where no request is made, the date of the review; or

- (b) any past period which falls within the period of 12 months mentioned in subparagraph (a) and has been followed by termination or interruption of entitlement to income support and —

- (i) the total amount of the increase would be £5 or less, or
 - (ii) the grounds for review are a material fact or relevant change of circumstances of which the claimant was aware but of which he previously failed to furnish information to the Secretary of State.

(2) A change mentioned in paragraph 7(8) of Schedule 3 to the Income Support (General) Regulations 1987⁽⁹⁾ (fall in interest rates or reduction of outstanding loan capital) shall be deemed not to be a change of circumstances if the amount of the instalments payable to the lender remains constant but, in such a case, where a determination is subsequently reviewed under section 104(1)(b) of the 1975 Act, that review shall also take account of any such change.

(3) A determination relating to income support made by an adjudicating authority or a Commissioner may be reviewed by an adjudication officer or, on a reference by him, by an appeal tribunal for the sole purpose of giving effect to any change in —

- (a) any amount specified in Schedules 2 to 7 of the Income Support (General) Regulations 1987;
- (b) the prescribed rate of any payment —
 - (i) under the Child Benefit Act 1975⁽¹⁰⁾, the 1975 Act or Part II of the 1986 Act as it applies to family credit, or
 - (ii) made by virtue of any scheme made under the Industrial Injuries and Diseases (Old Cases) Act 1975⁽¹¹⁾, or
 - (iii) of a war disablement pension or war widow's pension as defined in section 84(1) of the 1986 Act,

but any such change shall be deemed not to be a change of circumstances for the purposes of section 104 of the 1975 Act.

(4) A determination relating to income support made by an adjudicating authority or a Commissioner shall be reviewed by an adjudication officer or, on a reference by him, by an appeal tribunal where this is necessary to give effect to —

- (a) regulation 22 of the Income Support (General) Regulations 1987 (reductions in applicable amounts in certain cases of actual or notional unemployment benefit disqualification); or
- (b) a determination given on a question to which regulation 64 applies; or
- (c) a change of circumstances to which regulation 14 (reduction and termination of transitional and personal expenses addition) and regulation 15 (special transitional addition) of the Income Support (Transitional) Regulations 1987⁽¹²⁾ applies, and paragraph (3) shall not apply in any such case.”

Amendment of regulation 70

- 11. For regulation 70 there shall be substituted the following regulation —

⁽⁹⁾ S.I. 1987/1967.

⁽¹⁰⁾ 1975 c. 61.

⁽¹¹⁾ 1975 c. 16.

⁽¹²⁾ S.I. 1987/1969.

“Review in family credit cases

70. Where a review under section 104(1)(a) of the 1975 Act of a decision relating to family credit arises from a disclosure of a material fact of which the person who claimed family credit was, or could reasonably have been expected to be, aware but of which he previously failed to furnish information to the Secretary of State, then if that review would result in either a new award of family credit or an increase in the amount of family credit payable, such new award or increase shall not be payable in respect of any period earlier than 12 months before the date on which that person first furnished that information.”.

Amendment of Schedule 2

12. In paragraph 1(b) of Schedule 2 (time limits for making applications, appeals or references), for the reference to “regulation 59” there shall be substituted a reference to “regulation 58(2)”.

Savings

13. The Social Security (Adjudication) Regulations 1986⁽¹³⁾ shall continue to apply to the adjudication of claims and questions relating to any benefit payable under the Supplementary Benefits Act 1976⁽¹⁴⁾ or the Family Income Supplements Act 1970⁽¹⁵⁾ as if these Regulations had not been made.

Signed by authority of the Secretary of State for Social Services

20th November 1987

Nicholas Scott
Minister of State,
Department of Health and Social Security

⁽¹³⁾ S.I. 1986/2218.

⁽¹⁴⁾ 1976 c. 71.

⁽¹⁵⁾ 1970 c. 55.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

Column (1) Provision	Column (2) Relevant Amendments
Social Security Act 1975(16)	Section 114
	Employment Protection (Consolidation) Act 1978(17), Schedule 16 paragraph 19(1) and the Social Security Act 1986(18), Schedule 5 paragraph 16.
	section 115
	Health and Social Services and Social Security Adjudications Act 1983(19), Schedule 8 paragraphs 5 and 25.
	section 119 (3) and (4)
	Child Benefit Act 1975(20), Schedule 4 paragraph 33; Social Security Act 1979(21), Schedule 3 paragraph 9; Social Security Act 1980(22), Schedule 1 paragraph 12 and the Social Security Act 1986, Schedule 11 with a saving by article 4 of S.I.1986/1959.
	section 166
	Social Security Act 1986 section 62(1).
	Schedule 13
	Health and Social Services and Social Security Adjudications Act 1983, Schedule 8 paragraphs 1(1) and (3) and 12 and the Social Security Act 1986, Schedule 5 paragraph 19.
	Schedule 20
	Social Security Act 1986, Schedule 5 paragraph 20.
Social Security Act 1986	section 52(4)
	None.
	section 84(1)(23)
	None.
	section 89(1)
	None.

(16) 1975 c. 14. Sections 114, 115(1) and (2) and (4) to (7) and 119 and Schedule 13 were applied to income support and family credit by virtue of section 52(3) of the Social Security Act 1986. Section 116(1) to (3A) was applied to powers to make regulations under the Social Security Act 1986 by section 83(1) of that Act. Schedule 20 is cited because of the meaning ascribed to the words “prescribed” and “Regulations”.

(17) 1978 c. 44.

(18) 1986 c. 50.

(19) 1983 c. 41.

(20) 1975 c. 61.

(21) 1979 c. 18.

(22) 1980 c. 30.

(23) Section 84(1) is cited because of the meaning ascribed to the word “prescribed” and “Regulations”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Adjudication) Regulations 1986 (“the Adjudication Regulations”) to provide —

(1) amendments consequential upon the coming into force of sections 20 to 27 of the Social Security Act 1986 including new regulations 63, 64, 69 and 70 of the Adjudication Regulations which, apart from the consequential amendments, are unamended (regulations 2, 4, 8, 9, 10 and 11);

(2) savings for existing claimants to both supplementary benefit and family income supplement (regulation 13);

(3) a provision enabling the Secretary of State to review determinations of his referred to in regulation 19(1) of the Adjudication Regulations (regulation 3);

(4) an amendment omitting the requirement that medical appeal tribunals record their decisions in a form approved by the Secretary of State (regulation 5);

(5) corrections of minor errors (regulations 2, 6, 7 and 12).