

1988 No. 1725

SOCIAL SECURITY

**The Social Security (Common Provisions) Miscellaneous
Amendment Regulations 1988**

Made - - - - - *7th October 1988*
Laid before Parliament *7th October 1988*
Coming into force - *7th November 1988*

The Secretary of State for Social Security, in exercise of powers conferred by sections 100(2), 104(5)(b), 108(2) and 166(2) of the Social Security Act 1975(a) and sections 51(1) and 53 of the Social Security Act 1986(b) 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(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Common Provisions) Miscellaneous Amendment Regulations 1988 and shall come into force on 7th November 1988.

(2) In these Regulations—

“the Adjudication Regulations” means the Social Security (Adjudication) Regulations 1986(d);

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(e); and

“the Payments on account, Overpayments and Recovery Regulations” means the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988(f).

Amendment of the Adjudication Regulations

2.—(1) The Adjudication Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (d) of regulation 53 (definition of “medical question”) for the words “for locomotion,” there shall be substituted the words “for locomotion; or”.

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- (a) 1975 c.14. See section 168(1) and Schedule 20 for the meaning of “regulations” and “prescribed”. Subsection (2) of section 100 was amended by section 52 of and Schedule 5, paragraph 6(b) to the Social Security Act 1986 (c.50) (the 1986 Act), subsection (5)(b) of section 104 was inserted by section 52 of and Schedule 5, paragraph 10(d) to the 1986 Act and section 166(2) is applied by section 83(1) of the 1986 Act to regulation-making powers conferred by that Act.
- (b) 1986 c.50. See section 84(1) for the meaning of “prescribed” and “regulations”.
- (c) See section 10(2)(b) of the Social Security Act 1980 (c.30) and section 61(1)(b) of the 1986 Act.
- (d) S.I. 1986/2218, to which the relevant amendment is S.I. 1987/1970.
- (e) S.I. 1987/1968, amended by S.I. 1988/522.
- (f) S.I. 1988/664, to which there are no relevant amendments.

(3) After paragraph (d) of regulation 53 there shall be added the following paragraph—
“(e) which would have been a question under paragraphs (a), (b) and (d) on the day before he attained 65, in the case of a person who is over the age of 65 but under the age of 66 at the date on which the claim is received or treated as received.”.

(4) In regulation 54 (date for the determination of the medical questions) after the words “any medical question” there shall be inserted the words “except a question under regulation 53(e)”.

(5) In paragraph (6)(c) of regulation 63 (notification of decisions in income support cases) for the reference to section 23(8) there shall be substituted a reference to section 23A(a).

(6) In regulation 71 (review in social fund maternity and funeral expenses cases) after the words “maternity or funeral expenses” there shall be inserted the words “or expenses for heating which appear to the Secretary of State to have been or to be likely to be incurred in cold weather”.

Amendment of the Claims and Payments Regulations

3.—(1) The Claims and Payments Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1) after the definition of “partner” there shall be inserted the following definition—

“‘period of cold weather’ means that period set out in regulation 1(2) of the Social Fund Cold Weather Payments (General) Regulations 1988(b);”;

(b) in paragraph (2)(b) after the words “in section 32(2)(a)” there shall be inserted the words “and section 32(2A)”(c).

(3) In paragraph (3) of regulation 6 (date of claim) after the words “maternity or funeral expenses” there shall be added the words “or expenses for heating which appear to the Secretary of State to have been or to be likely to be incurred in cold weather”.

(4) After regulation 15 there shall be inserted the following regulation—

“Cold weather payments

15A.—(1) Where a person claims expenses for heating in respect of a period of cold weather and an award is made in respect of that claim then in any other subsequent period of cold weather occurring between the end of that period and 30th April immediately following the adjudicating authority may—

(a) treat the claim also as if made for that subsequent period; and

(b) award benefit accordingly, subject to the condition that the person satisfies the prescribed circumstances set out in regulation 2(1) of the Social Fund Cold Weather Payments (General) Regulations 1988.

(2) An award under paragraph (1)(b) shall be reviewed by the adjudicating authority if the prescribed circumstances are found not to have been satisfied in any subsequent period.”.

(5) In paragraph (4) of regulation 19 (time for claiming benefit) after the words “maternity or funeral expenses” there shall be inserted the words “or expenses for heating which appear to the Secretary of State to have been or to be likely to be incurred in cold weather”.

(6) In paragraph (5) of regulation 30 (payments on death) after the words “in section 32(2)(a)” there shall be inserted the words “and section 32(2A)”.

(a) Section 23A of the 1986 Act was inserted by section 16 of and Schedule 4, paragraph 25 to the Social Security Act 1988 (c.7).

(b) S.I. 1988/1724.

(c) Section 32(2A) of the 1986 Act was inserted by section 11 of and Schedule 3, paragraph 2 to the Social Security Act 1988 (c.7).

(7) In paragraph (2) of regulation 35 (deductions from benefit and direct payments to third parties) after the words "maternity or funeral expenses" there shall be inserted the words "or expenses for heating which appear to the Secretary of State to have been or to be likely to be incurred in cold weather".

(8) In Schedule 4 (prescribed time for claiming benefit)-

(a) in column 1 (description of benefit) below paragraph 9 there shall be inserted the following paragraph-

"9A. Social fund payment to meet expenses for heating incurred in a period of cold weather."; and

(b) in column 2 (prescribed time for claiming benefit) there shall be inserted, so as to relate to paragraph 9A, "3 months from the last day of the period of cold weather recorded at the designated National Climatological Message Station appropriate to the claimant."

Amendment of the Payments on account, Overpayments and Recovery Regulations

4. In the definition of "benefit" in paragraph 2 of regulation 1 (interpretation) for the words "any payment under section 32(2)(a) of the Act (maternity and funeral expenses)" there shall be substituted the words "any social fund payment under sections 32(2)(a) and 32(2A) of the Act".

Signed by authority of the Secretary of State for Social Security.

7th October 1988

Nicholas Scott
Minister of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Adjudication) Regulations 1986 (the Adjudication Regulations), the Social Security (Claims and Payments) Regulations 1987 (the Claims and Payments Regulations) and the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 (the Payments on account, Overpayments and Recovery Regulations) (collectively the Common Provisions Regulations).

Regulation 2(3) amends regulation 53 of the Adjudication Regulations by extending the definition of a medical question to include consideration of existing medical questions as at the day before his 65th birthday in the case of a person who when his claim is received or treated as received is over the age of 65 but under 66. Regulation 2(6) amends regulation 71 of the Adjudication Regulations to limit any payment for heating expenses incurred in a period of cold weather following a review to twelve months.

Regulation 3 only contains amendments following the Social Fund Cold Weather Payments (General) Regulations 1988 for the purpose of claims for and payments of social fund payments in respect of expenses for heating incurred in cold weather. In particular regulation 3(4) inserts a new regulation 15A into the Claims and Payments Regulations to provide that where an award is made on a claim for such expenses it shall be treated as a claim for other periods of cold weather occurring between the end of that first period and the 30th April immediately following, providing the claimant meets the prescribed circumstances and an award is made accordingly. Further provision is made for the adjudicating authorities to review in the event of the prescribed circumstances not being met. Regulation 3(8) amends Schedule 4 to the Claims and Payments

Regulations to prescribe the time for making a claim for such expenses as being three months from the last day of the period of cold weather recorded at the designated National Climatological Message Station relevant to the claimant.

The regulations also contain amendments to the Common Provisions Regulations of a minor nature flowing from the introduction of sections 23A and 32(2A) into the Social Security Act 1986 by the Social Security Act 1988.

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