

1989 No. 136

SOCIAL SECURITY

**The Social Security (Claims and Payments and
Payments on account, Overpayments and Recovery)
Amendment Regulations 1989**

Made - - - - 1st February 1989

Laid before Parliament 6th February 1989

Coming into force

*For the purposes of
regulations 2(2), 2(6)(b)(ii),
2(7)(b)(i)(aa) and 4(1) 10th April 1989*

For all other purposes 27th February 1989

The Secretary of State for Social Security, in exercise of powers conferred by sections 104(5)(b) 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 (Claims and Payments and Payments on account, Overpayments and Recovery) Amendment Regulations 1989 and shall come into force for the purposes of regulations 2(2), 2(6)(b)(ii), 2(7)(b)(i)(aa), and 4(1) on 10th April 1989 and for all other purposes on 27th February 1989.

(2) In these Regulations—

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

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

Amendment of the Claims and Payments Regulations

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

(2) In regulation 3 (claims not required for entitlement to benefit in certain cases) after paragraph (d) there shall be added the following paragraph—

“(e) in the case of retirement allowance(f).”.

(a) 1975 c.14. See section 168(1) and Schedule 20 for the meaning of “Prescribed” and “Regulations”. Subsection (5)(b) of section 104 was inserted by section 52 of and Schedule 5, paragraph 10(d) to the Social Security Act 1986 (c.50) (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(6)(b) of the 1986 Act.

(d) S.I. 1987/1968, amended by S.I. 1988/522 and 1725.

(e) S.I. 1988/664, to which the relevant amending instrument is S.I. 1988/1725.

(f) See section 59B of the Social Security Act 1975 (c.14) (the 1975 Act). Section 59B was inserted into the 1975 Act by section 2(1) of the Social Security Act 1988 (c.7). Section 2(1) comes into force on 10th April 1989 (see S.I. 1988/1857).

- (3) In paragraph (3) of regulation 9 (interchange with claims for other benefits) for the word "of" in the third place where it occurs there shall be substituted the word "in".
- (4) Regulation 12 (self-certified claims for first 7 days of a spell of incapacity for work) shall be omitted.
- (5) In regulation 26 (income support)—
- (a) in paragraph (2)—
- (i) after the word "increased" there shall be inserted the words "or reduced",
- (ii) after the word "increase" in the first place where it occurs there shall be inserted the words "or reduction," and
- (iii) after the word "increase" in the second place where it occurs there shall be inserted the words "or disregard the reduction";
- (b) for paragraph (3) there shall be substituted the following paragraph—
- "(3) Where income support is payable to a beneficiary by means of a book of serial orders and a payment to a third party under Schedule 9 is increased on review so that the amount of income support payable to the beneficiary is reduced by an amount which with any previous reduction is less than 50 pence per week, the Secretary of State may make the payment to the third party and disregard the reduction in respect of the beneficiary for the period to which the book relates.";
- (c) in paragraph 4 for the words "is paid" there shall be substituted the words "may be paid".
- (6) In Schedule 7 (manner and time of payment, effective date of change of circumstances and commencement of entitlement in income support cases)—
- (a) after paragraph 2 (time of payment) there shall be inserted the following paragraph—
- "2A.—(1) For the purposes of this paragraph—
- (a) "public holiday" means, as the case may be, Christmas Day, Good Friday or a Bank Holiday under the Banking and Financial Dealings Act 1971(a) or in Scotland local holidays, and
- (b) "office closure" means a period during which an office of the Department of Social Security or associated office is closed in connection with a public holiday.
- (2) Where income support is normally paid in arrears and the day on which the benefit is payable by reason of paragraph 3 is affected by office closure it may for that benefit week be paid wholly in advance or partly in advance and partly in arrears and on such a day as the Secretary of State may direct.
- (3) Where under this paragraph income support is paid either in advance or partly in advance and partly in arrears it shall for any other purposes be treated as if it was paid in arrears.";
- (b) in paragraph 7 (date when change of circumstances is to have effect)—
- (i) in sub-paragraph (1)—
- (aa) in head (b) for the words "next following such day" there shall be substituted the words "next following such day, and", and
- (bb) after head (b) (so as to follow on from it and form a full out provision to sub-paragraph (1)) there shall be added the words—
- "for the purposes of this paragraph any period of residence in temporary accommodation pursuant to arrangements for training under section 2 of the Employment and Training Act 1973(b) for a period which is expected to last for seven days or less shall not be regarded as a change of circumstances.",
- (ii) sub-paragraph (3)(e) shall be omitted,

(a) 1971 c.80.

(b) 1973 c.50; a new section 2 was substituted by section 25 of the Employment Act 1988 (c.19).

(iii) in sub-paragraph (4) for the words "in sub-paragraphs (3)(b) to (f)" there shall be substituted the words "in sub-paragraph 3(b), (c), (e), (f) and (g)", and

(iv) after sub-paragraph (4) there shall be added the following sub-paragraph—

"(4A) Where, in the case set out in sub-paragraph (3)(d), the circumstances which have caused the award to be changed cease to apply and the award is changed again that change of circumstances shall be treated as taking effect from the day after the date of the second change."

(7) In Schedule 9 (deductions from benefit and direct payment to third parties)—

(a) in paragraph 1 (interpretation)—

(i) for the definition of "income support" there shall be substituted the following definition—

" 'income support' means income support under Part II of the Social Security Act 1986 and includes transitional addition, personal expenses addition and special transitional addition as defined in the Income Support (Transitional) Regulations 1987(a);",

(ii) the definition of "prisoner" shall be omitted;

(b) in paragraph 4 (miscellaneous accommodation costs)—

(i) in sub-paragraph (1)—

(aa) the words "board and lodging accommodation or" shall be omitted, and

(bb) for the words "a hostel run by a voluntary organisation and which is akin to a resettlement unit" there shall be substituted the words "run by a voluntary organisation either for purposes similar to the purposes for which resettlement units are provided",

(ii) in sub-paragraph (2)—

(aa) for the words "In relation to miscellaneous accommodation costs the amount" there shall be substituted the words "Subject to sub-paragraph (3), in relation to miscellaneous accommodation costs the amount",

(bb) for the words "under the above paragraphs" there shall be substituted "under sub-paragraph (1)",

(cc) in head (c) for the words "under paragraph 13(a)," there shall be substituted the words "under paragraph 13(1)(a), (b), (c) or (e)."

(iii) after sub-paragraph (2) there shall be added the following sub-paragraphs—

"(3) In relation to miscellaneous accommodation costs, where an award of income support is calculated in accordance with Part VII of the Income Support Regulations, (calculation of income support for part-weeks)(b) the amount of any payment of income support to a third party determined under sub-paragraph (1) shall be—

(a) where the amount is calculated under regulation 73(1) of the Income Support Regulations an amount calculated in accordance with sub-paragraph (2)(a), (b) or as the case may be (c), divided by the number of days in the part-week; or

(b) where the amount is calculated under regulation 73(2) of those regulations an amount calculated in accordance with regulation 73(4)(a)(i) or (b)(i) as the case may be;

and no payment shall be made to a third party under this sub-paragraph where the Secretary of State certifies it would be impracticable to do so in that particular case.

(4) Where the amount calculated under sub-paragraphs (2) or (3) is such that paragraph 2(2) would operate to prevent any payment under this paragraph being made the amount shall be adjusted so that 10 pence of the award is payable to the beneficiary.";

(a) S.I. 1987/1969, amended by S.I. 1988/521 and 670.

(b) Part VII was added to S.I. 1987/1967 by S.I. 1988/663.

- (c) in paragraph 7 (water charges)—
 - (i) in sub-paragraph (1)—
 - (aa) the words “to an amount not less than half the annual charge” shall be omitted, and
 - (bb) for the words “charges for that undertaker)” there shall be substituted the words “charges for that undertaker) except where the amount of the debt is less than half the annual charge when the adjudicating authority shall only so determine if in the opinion of that authority it would be in the interests of the family to do so.”,
 - (ii) in sub-paragraph (3)—
 - (aa) for the words “The weekly amount to be paid” there shall be substituted the words “Subject to sub-paragraph (3A), the weekly amount to be paid”,
 - (bb) in head (b) for the words “the continuing need for water charges.” there shall be substituted the words “the continuing need for water charges; and”,
 - (cc) after head (b) (so as to follow on from it and form a full-out provision to sub-paragraph (3)) there shall be added the words “and the adjudicating authority may direct that, when the debt is discharged, the amount determined under head (b) shall be the amount deductible”, and
 - (dd) in sub-paragraph (1)(b) of paragraph 9 (priority as between certain debts) for the reference to paragraph 2(a) there shall be substituted a reference to paragraph 2(1)(a);
 - (iii) after sub-paragraph (3) there shall be added the following sub-paragraph—
 - “(3A) Where water charges are determined by means of a water meter, the weekly amount to be paid in accordance with sub-paragraph (1) shall be either—
 - (a) an amount equal to the estimated average weekly cost necessary to meet the continuing need for the water charge; or
 - (b) where, since the date of the determination under head (a), the average weekly cost estimated has either been exceeded or has proved insufficient to meet the actual cost of continuing consumption so that in respect of any continuing need for the water charge, the beneficiary, or his partner, is in credit, or, as the case may be, a further debt has accrued, the adjudicating authority may determine that the weekly amount calculated under head (a) shall, for a period of 26 weeks, be adjusted so as to take account of that credit or further debt.”.

Amendment of the Payments on account, Overpayments and Recovery Regulations

3. In the definition of “benefit” in regulation 1(2) of the Payments on account, Overpayments and Recovery Regulations (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)(a) of the Act”.

Revocations

4.—(1) Paragraph 7(4) of Schedule 7 (manner and time of payment, effective date of change of circumstances and commencement of entitlement in income support cases) to the Claims and Payments Regulations, to the extent that it relates to sub-paragraph 3(e), is hereby revoked.

(2) Regulation 1(2) interpretation, to the extent that it relates to the definition of the Payments on account, Overpayments and Recovery Regulations and regulation 4 (amendment of the Payments on account, Overpayments and Recovery Regulations) of

(a) Section 32(2A) of the Social Security Act 1986 (c.50) was inserted by section 11 of and Schedule 3, paragraph 2 to the Social Security Act 1988 (c.7).

the Social Security (Common Provisions) Miscellaneous Amendment Regulations 1988(a) are hereby revoked.

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

1st February 1989

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 (Claims and Payments) Regulations 1987 (the Claims and Payments Regulations), the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 (the Payments on account, Overpayments and Recovery Regulations) and the Social Security (Common Provisions) Regulations 1988 (the Common Provisions Regulations).

Regulation 2 of these Regulations amends the Claims and Payments Regulations. It amends regulation 3 of the Claims and Payments Regulations by extending the benefits for which no claim is required to include retirement allowance which was introduced by the Social Security Act 1988. It amends regulation 26 of the Claims and Payments Regulations so that increases and deductions in income support are treated in the same way. It amends Schedule 7 to the Claims and Payments Regulations by allowing payment in advance of public holidays where income support is paid in arrears, makes minor amendments to that Schedule to take account of the termination of arrangements for meeting the accommodation charge for board and lodging accommodation and puts hospital patients whose pattern of stay in hospital is irregular on the same footing as those patients who have regular home visits. Further, regulation 2 amends Schedule 9 to the Claims and Payments Regulations in some minor respects and extends the arrangements for payments to third parties in respect of miscellaneous accommodation costs allowing this provision to be used in the case of certain part-week payments and remitting deduction in respect of water charges where the debt is less than half the annual charge when deduction will only be made if in the opinion of the adjudicating authority it would be in the interests of the family. Further it allows payments to be made to third parties in respect of water charges where the charge is determined by means of a water meter. Other amendments of a minor nature are made.

Regulation 3 re-enacts the amendment to the Payments on account, Overpayments and Recovery Regulations made by the Common Provisions Regulations extending the interpretation of a social fund payment to take account of the introduction of section 32(2A) into the Social Security Act 1986 by the Social Security Act 1988. Regulation 4 revokes defective parts of the Common Provisions Regulations which were intended to relate to the Payments on account, Overpayments and Recovery Regulations and Schedule 7, paragraph 7(4) to the Claims and Payments Regulations to the extent that it relates to paragraph 7(3)(e) to take account of the termination of arrangements for meeting the accommodation charge for board and lodging accommodation.

(a) S.I. 1988/1725.