
STATUTORY INSTRUMENTS

1993 No. 2113

SOCIAL SECURITY

**The Social Security (Claims and Payments)
Amendment (No. 3) Regulations 1993**

<i>Made</i>	- - - -	<i>25th August 1993</i>
<i>Laid before Parliament</i>		<i>3rd September 1993</i>
<i>Coming into force—</i>		
	<i>except for regulation 3(4)</i>	<i>27th September 1993</i>
	<i>regulation 3(4)</i>	<i>25th October 1993</i>

The Secretary of State for Social Security, in exercise of the powers conferred by sections 5(1) (as extended by section 43(2) of the Child Support Act 1991⁽¹⁾), 8, 15A and 189 of the Social Security Administration Act 1992⁽²⁾ and paragraphs 1 and 6 of Schedule 4 to the Local Government Finance Act 1992⁽³⁾ and of all other powers enabling him in that behalf, the Social Security Advisory Committee having agreed that proposals to make these Regulations, in so far as they would otherwise be required to be referred to it, need not be referred to it⁽⁴⁾, hereby makes the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Social Security (Claims and Payments) Amendment (No. 3) Regulations 1993.

(2) These Regulations, except for regulation 3(4), shall come into force on 27th September 1993, and regulation 3(4) shall come into force on 25th October 1993.

Amendment of the Social Security (Claims and Payments) Regulations 1979

2. For sub-paragraphs (a) and (b) of paragraph (3) of regulation 25 of the Social Security (Claims and Payments) Regulations 1979⁽⁵⁾ there shall be substituted the following sub-paragraphs—

“(a) keep readily accessible a means (whether in a book or books or by electronic means), in a form approved by the Secretary of State, by which a person employed

(1) 1991 c. 48.

(2) 1992 c. 5; section 15A was inserted by the Schedule to the Social Security (Mortgage Interest Payments) Act 1992 (c. 33).

(3) 1992 c. 14.

(4) See section 173(1) of the Social Security Administration Act 1992.

(5) S.I. 1979/628, to which there are amendments not relevant to these Regulations.

by the employer or some other person acting on his behalf may record the appropriate particulars (as defined in regulation 24) of any accident causing personal injury to that person; and

- (b) preserve every such record for the period of at least 3 years from the date of its entry.”.

Amendment of the Social Security (Claims and Payments) Regulations 1987

3.—(1) The Social Security (Claims and Payments) Regulations 1987⁽⁶⁾ (“the principal Regulations”) shall be amended in accordance with the following provisions of this Regulation.

(2) At the beginning of paragraph (8) of regulation 6 of the principal Regulations there shall be inserted the words “Subject to paragraph (8A)” and after paragraph (8) there shall be inserted the following paragraph—

“(8A) Where, in a case which would otherwise fall within paragraph (8), it is not possible to determine the date when the request for a claim form was received in an appropriate office because of a failure to record that date, the claim shall be treated as having been made on the date 6 weeks before the date on which the properly completed claim form is received in an appropriate office.”.

(3) In sub-paragraph (a) of paragraph (3) of regulation 19 of the principal Regulations, for the words “to one month,” there shall be substituted the words “and if the time prescribed in relation to that benefit in column (2) of that Schedule is less than one month, by such period as may be specified in the certificate, but not so as to extend the prescribed time for claiming to more than one month;”.

(4) In paragraph (1) of regulation 27 of the principal Regulations, after the words “Subject to regulation 21” there shall be inserted the words “and paragraph (1A)”, and after that paragraph there shall be inserted the following paragraph—

“(1A) Subject to paragraph (2), where an amount of family credit or disability working allowance becomes payable which is at a weekly rate of not more than £4.00, that amount shall, if the Secretary of State so directs, be payable as soon as practicable by means of a single payment; except that if that amount represents an increase in the amount of either of those benefits which has previously been paid in respect of the same period, this paragraph shall apply only if that previous payment was made by means of a single payment.”.

(5) Regulation 30 of the principal Regulations shall be amended as follows—

- (a) at the beginning of each of paragraphs (6) and (6B) there shall be inserted the words “Subject to the following provisions of this regulation,”;

(b) after paragraph (6B) there shall be inserted the following paragraphs—

“(6C) Subject to paragraph (6D), where the Secretary of State certifies that to do so would be consistent with the proper administration of the Social Security Contributions and Benefits Act 1992 the period specified in paragraphs (6)(a) and (c) and (6B)(b) and (c) shall be extended by such period, not exceeding 6 months, as may be specified in the certificate.

- (a) (6D) Where a certificate is given under paragraph (6C) extending the period specified in paragraph (6)(a) or (6B)(b), the period specified in paragraph (6)(c) or (6B)(c) shall be shortened by a period corresponding to the period specified in the certificate;

(b) no certificate shall be given under paragraph (6C) which would enable a claim to be made more than 12 months after the date of death (in a case falling within

⁽⁶⁾ S.I. 1987/1968. The relevant amending instruments are S.I.s 1989/136 and 1686; 1990/2208; 1991/2284 and 2741; 1992/247, 1026 and 3147; 1993/478 and 1113.

paragraph (6)) or the date of a death certificate being issued in respect of the person who has died (in a case falling within paragraph (6B)); and

- (c) in the application of sub-paragraph (b) any period between the date when an application for a person to be appointed to make a claim is made and the date when that appointment is made shall be disregarded.”.

(6) In regulation 37 of the principal Regulations—

- (a) in paragraph (2) for the words “on or before the relevant date” there shall be substituted the words “within the relevant period”;
- (b) in paragraph (3) for the words “on or before the relevant date” there shall be substituted the words “within the relevant period”;
- (c) in paragraph (4) for the words “on or before the relevant date” there shall be substituted the words “within the relevant period”; and
- (d) for paragraph (5) there shall be substituted the following paragraph—

“(5) For the purposes of this regulation—

(a) “relevant period” means—

(i) where the appeal in question would fall to be determined by a Social Security Commissioner, the period of one month; and

(ii) in any other case, the period of 3 months,

beginning with the date on which notice in writing of the decision in question and of the reasons for it is received by the adjudication officer; and

(b) a claimant is to be treated as having been given the notice required by paragraph (3) on the date that it is posted to him at his last known address.”

(7) For regulation 37A of the principal Regulations there shall be substituted the following regulation—

“**37A.**—(1) Where it appears to the Secretary of State that—

(a) an appeal has been brought or a question arises whether an appeal ought to be brought against a decision of a Social Security Commissioner or of the appropriate court in relation to a case (“the primary case”); and

(b) if such an appeal were to be allowed a question would arise in relation to another case (“the secondary case”) whether the award of benefit (whether the same benefit as in the primary case or not) in that case ought to be revised,

he may direct that payment of benefit under the award in the secondary case be suspended, in whole or in part—

(i) until the time limit for making an application or lodging a petition for leave to appeal in the primary case has expired; or

(ii) if such an application is made or petition lodged, until that application or petition and any consequent appeal has been determined,

whichever is the later.

(2) In this regulation “appeal” includes an appeal in relation to an application for judicial review made in accordance with Order 53 of the Rules of the Supreme Court 1965 or, in Scotland, an appeal in relation to such an application under the supervisory jurisdiction of the Court of Session, and, in relation to such an application “the appropriate court” includes the High Court or, as the case may be, the Court of Session.”

(8) For sub-paragraphs (c) and (d) of paragraph (2A) of regulation 38 of the principal Regulations there shall be substituted the following sub-paragraph—

- “(c) the Secretary of State has certified either—
- (i) that no instrument of payment has been given or sent to the person to whom it is payable and that no payment has been made under the provisions of regulation 21 (automated credit transfer); or
 - (ii) that such instrument has been produced to him and that no further instrument has been issued as a replacement.”
- (9) In paragraph 1 of Schedule 9 to the principal Regulations, at the end of the definition of “mortgage payment” there shall be added the words “, minus any amount which is not allowed under paragraph 10 of that Schedule or deducted under paragraph 11 of that Schedule.”.
- (10) In paragraph 4 of Schedule 9 to the principal Regulations after head (aa) of sub-paragraph (2) there shall be inserted the following head—
- “(ab) in a case where the beneficiary does not have a preserved right within the meaning of regulation 19 of the Income Support Regulations and is not liable to make a payment to a local authority under section 22 of the National Assistance Act 1948 an amount equal to the amount of the award of income support payable to the claimant but excluding an amount, if any, which when added to any other income of the beneficiary (as determined in accordance with regulation 28 of the Income Support Regulations) will equal the aggregate of the amounts—
- (i) prescribed by paragraph 13 of Schedule 4 to the Income Support Regulations; and
 - (ii) where the charge for the accommodation does not include the provision of all meals, an amount calculated under paragraph 2(2)(b) of that Schedule.”.
- (11) For sub-paragraph (1) of paragraph 7A of Schedule 9 there shall be substituted the following sub-paragraph—
- “(1) Subject to sub-paragraph (2), where a child support officer (within the meaning of section 13 of the Child Support Act 1991) has determined that section 43 of that Act and regulation 28 of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (contribution to maintenance by deduction from benefit) apply in relation to a beneficiary or his partner, the adjudicating authority shall [subject to paragraph 8], if it is satisfied that there is sufficient specified benefit in payment, determine that a weekly amount of that benefit shall be deducted by the Secretary of State for transmission to the person or persons entitled to it.”.
- (12) In paragraph 7A(2) of Schedule 9, for the words “paragraph (1)” there shall be substituted the words “sub-paragraph (1)”.
- (13) In paragraph 3(1) of Schedule 9A, after the words “relevant benefits which,” there shall be inserted the words “as determined by the adjudicating authority”.

Amendment of the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989

4. In regulation 4(1)(b) of the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989(7), after the words “regulation 2(1)” there shall be inserted the words “or regulation 2 of the Council Tax (Deductions from Income Support) Regulations 1993”.

(7) S.I. 1989/507. The powers under which that instrument was made were repealed by the Local Government Finance Act 1992 (c. 14) but its operation is preserved for certain purposes by section 118 of that Act. See also S.I. 1993/1780 which continues in force those powers for the purpose of enabling that instrument to be amended.

Amendment of the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990

5. In the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990⁽⁸⁾—
- (a) in regulation 2(4)(a)(i), for the words “paragraph 1(1)(c)” there shall be substituted the words “paragraph 1(1)(e)”;
 - (b) in regulation 2(5), after the words “one or more further applications” there shall be inserted the words “or one or more applications under regulation 2 of the Council Tax (Deductions from Income Support) Regulations 1993”;
 - (c) in paragraph 34(2) of Schedule 2, for the word “within”, in the second place where it appears, there shall be substituted the word “with”.

Amendment of the Council Tax (Deductions from Income Support) Regulations 1993

6. In the Council Tax (Deductions from Income Support) Regulations 1993⁽⁹⁾—
- (a) in regulation 3, for the words “Local Government Act” there shall be substituted the words “Local Government Finance Act”;
 - (b) in each of paragraphs 6(a), 13(1)(a) and 13(1)(c) of Schedule 2, for the words “the 1992 Act” there shall be substituted the words “the Administration Act”.

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

25th August 1993

Alistair Burt
Parliamentary Under-Secretary of State,
Department of Social Security

⁽⁸⁾ S.I. 1990/545. The powers under which that instrument was made were repealed by the Local Government Finance Act 1992 (c. 14) but its operation is preserved for certain purposes by section 118 of that Act. *See also* S.I. 1993/1780 which continues in force those powers for the purpose of enabling that instrument to be amended.

⁽⁹⁾ S.I. 1993/494.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous amendments to the Social Security (Claims and Payments) Regulations 1979, the Social Security (Claims and Payments) Regulations 1987, the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989, the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990 and the Council Tax (Deductions from Income Support) Regulations 1993.

Regulation 25 of the 1979 Regulations is amended so as to permit the record of industrial accidents which employers are required to keep to be kept by electronic means (regulation 2).

The principal amendments to the 1987 Regulations are—

- an amendment to regulation 6 to deal with the case where it is not possible to determine the date on which a request for a claim form for disability living allowance or attendance allowance was received (regulation 3(2)).
- an amendment to regulation 19(3) dealing with extensions of time for claiming benefit (regulation 3(3)).
- an amendment to regulation 27 to permit amounts of family credit or disability working allowance of not more than £4.00 a week to be paid in a lump sum (regulation 3(4)).
- an amendment to regulation 30 to permit the time allowed for applying for someone to be appointed to make a claim for benefit to which a deceased person was entitled, and for making the claim, to be extended (regulation 3(5)).
- amendments to regulations 37 and 37A dealing with the suspension of benefit pending an appeal (regulation 3(6) and (7)).
- an amendment to regulation 38 relating to the extinguishment of the right to payment of benefit (regulation 3(8)).
- an amendment to Schedule 9 to permit benefit to be paid direct to the proprietor of a residential home (regulation 3(10)).

The Community Charges and Council Tax Regulations are amended to deal with the priority to be given when more than one application for deductions from income support in respect of council tax or community charge is received (regulations 4, 5 and 6).

It is estimated that the cost to business of complying with these Regulations will be nil.