
STATUTORY INSTRUMENTS

1997 No. 793

**The Social Security (Miscellaneous
Amendments) (No.2) Regulations 1997**

Amendment of regulation 6 of the Claims and Payments Regulations

3.—(1) Regulation 6 of the Claims and Payments Regulations (date of claim) shall be amended in accordance with the following provisions of this regulation.

(2) After sub-paragraph (a) of paragraph (1) there shall be inserted the following sub-paragraph—

- “(aa) in the case of a claim for—
- family credit;
 - disability working allowance;
 - jobseeker’s allowance if first notification is received before 6th October 1997; or
 - income support if first notification is received before 6th October 1997;

which meets the requirements of regulation 4(1) and which is received in an appropriate office within one month of first notification in accordance with regulation 4(5), whichever is the later of—

- (i) the date on which that notification is received; and
- (ii) the first date on which that claim could have been made in accordance with these Regulations;”.

(3) After paragraph (1) there shall be added the following paragraph—

- “(1A) In the case of a claim for income support—
- (a) subject to the following sub-paragraphs, the date on which a claim is made shall be the date on which a properly completed claim is received in an appropriate office or the first day in respect of which the claim is made if later;
 - (b) where a properly completed claim is received in an appropriate office within one month of first notification of intention to make that claim, the date of claim shall be the date on which that notification is deemed to be made or the first day in respect of which the claim is made if later;
 - (c) a notification of intention to make a claim will be deemed to be made on the date when an appropriate office receives—
 - (i) a notification in accordance with regulation 4(5); or
 - (ii) a defective claim.”.

(4) In paragraph (3)(1) for the words “, jobseeker’s allowance or a social fund payment for maternity or funeral expenses” there shall be substituted the words “or jobseeker’s allowance”.

(5) For paragraph (4A)(2) there shall be substituted the following paragraphs—

“(4A) Where a person notifies the Secretary of State (by whatever means) that he wishes to claim a jobseeker’s allowance—

- (a) if he is required to attend under regulation 4(6)(a)—
 - (i) if he subsequently attends for the purpose of making a claim for that benefit at the time and place specified by the Secretary of State and complies with the requirements of paragraph (4AA), the claim shall be treated as made on whichever is the later of first notification of intention to make that claim and the first day in respect of which the claim is made;
 - (ii) if, without good cause, he fails to attend for the purpose of making a claim for that benefit at either the time or place so specified, or does not comply with the requirements of paragraph (4AA), the claim shall be treated as made on the first day on which he does attend at that place and does provide a properly completed claim;
- (b) if under regulation 4(6)(a) the Secretary of State directs that he is not required to attend—
 - (i) subject to the following sub-paragraph, the date on which the claim is made shall be the date on which a properly completed claim is received in an appropriate office or the first day in respect of which the claim is made if later;
 - (ii) where a properly completed claim is received in an appropriate office within one month of first notification of intention to make that claim, the date of claim shall be the date of that notification.

(4AA) Unless the Secretary of State otherwise directs, a properly completed claim shall be provided at or before the time when the person making the claim for a jobseeker’s allowance is required to attend for the purpose of making a claim.

(4AB) The Secretary of State may direct that the time for providing a properly completed claim may be extended to a date no later than the date one month after the date of first notification of intention to make that claim.”

(6) After paragraph (11) there shall be added the following paragraphs—

“(12) Subject to paragraph (14), where a person has claimed disability working allowance and that claim (“the original claim”) has been refused, and a further claim is made in the circumstances specified in paragraph (13), that further claim shall be treated as made—

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the qualifying benefit was payable,

whichever is the later.

(13) The circumstances referred to in paragraph (12) are that—

- (a) the original claim was refused on the ground that the claimant did not qualify under section 129(2) of the Contributions and Benefits Act;
- (b) at the date of the original claim the claimant had made a claim for a qualifying benefit and that claim had not been determined;
- (c) after the original claim had been determined, the claim for the qualifying benefit was determined in the claimant’s favour; and
- (d) the further claim for disability working allowance was made within three months of the date that the claim for the qualifying benefit was determined.

(14) Paragraph (12) shall not apply in a case where the further claim for disability working allowance is made within the period prescribed under section 30(1) of the Social Security Administration Act 1992, and is accordingly treated as an application for a review under section 30(13) of that Act.

(15) In paragraphs (12) and (13) “qualifying benefit” means any of the benefits referred to in section 129(2) of the Contributions and Benefits Act.

(16) Where a person has claimed severe disablement allowance and that claim (“the original claim”) has been refused, and a further claim is made in the circumstances specified in paragraph (17), that further claim shall be treated as made—

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the highest rate of the care component of disability living allowance was payable,

whichever is the later.

(17) The circumstances referred to in paragraph (16) are that—

- (a) the original claim was refused on the ground that the claimant’s disablement was less than 80 per cent.;
- (b) at the date of the original claim the claimant had made a claim for disability living allowance, and that claim had not been determined;
- (c) after the original claim had been determined, the claimant was awarded the highest rate of the care component of disability living allowance; and
- (d) the further claim for severe disablement allowance was made within three months of the date that the claim for disability living allowance was determined.

(18) Where a person has ceased to be entitled to incapacity benefit, and a further claim for incapacity benefit is made in the circumstances specified in paragraph (19), that further claim shall be treated as made—

- (a) on the date that entitlement to incapacity benefit ceased; or
- (b) on the first date in respect of which the qualifying benefit was payable;

whichever is the later.

(19) The circumstances referred to in paragraph (18) are that—

- (a) entitlement to incapacity benefit ceased on the ground that the claimant was not incapable of work;
- (b) at the date that entitlement to incapacity benefit ceased the claimant had made a claim for a qualifying benefit and that claim had not been determined;
- (c) after entitlement to incapacity benefit had ceased, the claim for the qualifying benefit was determined in the claimant’s favour; and
- (d) the further claim for incapacity benefit was made within three months of the date that the claim for the qualifying benefit was determined.

(20) In paragraphs (18) and (19) “qualifying benefit” means any of the payments referred to in regulation 10(2)(a) of the Social Security (Incapacity for Work) (General) Regulations 1995(3).

(21) Where a person has claimed invalid care allowance and that claim (“the original claim”) has been refused, and a further claim is made in the circumstances specified in paragraph (22), that further claim shall be treated as made—

- (a) on the date of the original claim; or

(b) on the first date in respect of which the qualifying benefit was payable in respect of the disabled person,

whichever is the later.

(22) The circumstances referred to in paragraph (21) are that—

- (a) the original claim was refused on the ground that the disabled person was not a severely disabled person within the meaning of section 70(2) of the Contributions and Benefits Act;
- (b) at the date of the original claim the disabled person had made a claim for a qualifying benefit, and that claim had not been determined;
- (c) after the original claim had been determined, the claim for the qualifying benefit was determined in the disabled person's favour; and
- (d) the further claim for invalid care allowance was made within three months of the date that the claim for the qualifying benefit was determined.

(23) In paragraphs (21) and (22)—

- (a) “the disabled person” means the person for whom the invalid care allowance claimant is caring in accordance with section 70(1)(a) of the Contributions and Benefits Act; and
- (b) “qualifying benefit” means any benefit or payment referred to in section 70(2) of the Contributions and Benefits Act.

(24) Where a person has claimed a social fund payment in respect of maternity or funeral expenses and that claim (“the original claim”) has been refused, and a further claim is made in the circumstances specified in paragraph (25), that further claim shall be treated as made—

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the qualifying benefit was awarded,

whichever is the later.

(25) The circumstances referred to in paragraph (24) are that—

- (a) the original claim was refused on the ground that the claimant had not been awarded a qualifying benefit;
- (b) at the date of the original claim the claimant had made a claim for a qualifying benefit and that claim had not been determined;
- (c) after the original claim had been determined, the claim for the qualifying benefit was determined in the claimant's favour; and
- (d) the further claim for a social fund payment was made within three months of the date that the claim for the qualifying benefit was determined.

(26) In paragraphs (24) and (25) “qualifying benefit” means—

- (a) in the case of a claim for a social fund payment in respect of maternity expenses, any benefit referred to in regulation 5(1)(a) of the Social Fund Maternity and Funeral Expenses (General) Regulations 1987(4);
- (b) in the case of a claim for a social fund payment in respect of funeral expenses, any benefit referred to in regulation 7(1)(a) of those Regulations(5).

(27) Where a claim is made for family credit or disability working allowance, and—

(4) S.I. 1987/481; relevant amending instruments are S.I. 1988/36, 1991/2742 and 1996/1443.

(5) S.I. 1987/481; regulation 7 was substituted by S.I. 1997/792.

- (a) the claimant had previously made a claim for income support or jobseeker's allowance ("the original claim");
- (b) the original claim was refused on the ground that the claimant or his partner was in remunerative work; and
- (c) the claim for family credit or disability working allowance was made within 14 days of the date that the original claim was determined,

that claim shall be treated as made on the date of the original claim, or, if the claimant so requests, on a later date specified by the claimant.

(28) Where a claim is made for income support or jobseeker's allowance, and—

- (a) the claimant had previously made a claim for family credit or disability working allowance ("the original claim");
- (b) the original claim was refused on the ground that the claimant or his partner was not in remunerative work; and
- (c) the claim for income support or jobseeker's allowance was made within 14 days of the date that the original claim was determined,

that claim shall be treated as made on the date of the original claim, or, if the claimant so requests, on a later date specified by the claimant.".