

1999 No. 2422 (c. 61)

SOCIAL SECURITY

The Social Security Act 1998 (Commencement No. 9, and Savings and Consequential and Transitional Provisions) Order 1999

Made - - - - -

2nd September 1999

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 79(3) and (4) and 87(2) and (3) of the Social Security Act 1998(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and interpretation

1.—(1) This Order may be cited as the Social Security Act 1998 (Commencement No. 9, and Savings and Consequential and Transitional Provisions) Order 1999.

(2) In this Order, unless the context otherwise requires—

- (a) “the Act” means the Social Security Act 1998;
- (b) “the Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations 1999(b);
- (c) “relevant benefit” means any of the benefits to which article 2(c) of this Order refers, and references to sections and Schedules are references to sections of, and Schedules to, the Act.

►(d) “relevant benefit” also means the following benefits under the Social Security Act 1975(c)—

- (i) sickness benefit under section 14;
- (ii) unemployment benefit under section 14;
- (iii) invalidity pension under section 15; and
- (iv) invalidity allowance under section 16.◄

¹Para. (d) added to art. 1(2) by art. 2(2) of S.I. 2006/2540 as from 16.10.06.

Appointed day

2. 6th September 1999 is the day appointed for the coming into force of—

- (a) section 31;
- (b) section 39(3) in so far as it provides that section 61A of the Administration Act(d) shall cease to have effect, and section 86(2) and Schedule 8 in so far as they repeal that section 61A; and
- (c) the provisions specified in Schedule 1 to this Order, in so far as those provisions are not already in force, for the purposes of—
 - (i) benefits under Part II of the Contributions and Benefits Act except child’s special allowance;
 - (ii) severe disablement allowance under sections 68 and 69 of that Act;

(a) 1998 c. 14.

(b) S.I. 1999/991, to which there are amendments not relevant to this Order.

(c) 1975 c. 14. These provisions were consolidated in the Social Security Contributions and Benefits Act 1992 (c. 4).

(d) Section 61A was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 6(2).

- (iii) benefits for the aged under sections 78 and 79 of that Act;
- (iv) increases for dependants under Part IV of that Act; and
- (v) graduated retirement benefit under sections 36 and 37 of the National Insurance Act 1965(a).

Consequential amendments and modifications

¹Words in art. 3(1) & Art. 3(15) & (16) added by art. 2(3)(a) & (b) of S.I. 2006/2540 as from 16.10.06.

²Paras. (2), (8), (9) and (14) of art. 3 revoked by para. 1(b) of Sch. 20 to S.I. 1999/3178 as from 29.11.99.

3.—(1) ¹Subject to paragraph (15)² the amendments and modifications made by the following paragraphs of this article shall take effect as from 6th September 1999.

²

(3) Section 36(10) of the National Insurance Act 1965 as continued in force by virtue of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 shall be omitted.

(4) The Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979(b) shall be amended in accordance with Schedule 3 to this Order.

(5) The Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979(c) shall be amended in accordance with Schedule 4 to this Order.

(6) The Social Security (Severe Disablement Allowance) Regulations 1984(d) shall be amended in accordance with Schedule 5 to this Order.

(7) The Income Support (General) Regulations 1987(e) shall be amended in accordance with Schedule 6 to this Order.

²

(10) The Social Security (Incapacity Benefit-Increases for Dependants) Regulations 1994(f) shall be amended in accordance with Schedule 9 to this Order.

(11) The Social Security (Incapacity for Work) (General) Regulations 1995(g) shall be amended in accordance with Schedule 10 to this Order.

(12) The Disability Working Allowance and Income Support (General) Amendment Regulations 1995(h) shall be amended in accordance with Schedule 11 to this Order.

(13) The Social Security (Persons From Abroad) Miscellaneous Amendments Regulations 1996(i) shall be amended in accordance with Schedule 12 to this Order.

²

¹(15) The amendments in paragraph (16) shall take effect as from 16th October 2006.

(16) In the Social Security (Incapacity Benefit) (Transitional) Regulations 1995(j)–
(a) in regulation 11 (transitional awards of short-term incapacity benefit) after paragraph (5) add–

(a) 1965 c. 51; sections 36 and 37 remain in force by virtue of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (S.I. 1978/393).

(b) S.I. 1979/642; amendment was made by the Health and Social Services and Social Security Adjudications Act 1983, Schedule 8, paragraph 1(3)(a).

(c) S.I. 1979/643; amendments were made by the Social Security Act 1980 (c. 30), section 12(a) and the Health and Social Services and Social Security Adjudications Act 1983, Schedule 8, paragraph 1(3)(a).

(d) S.I. 1984/1303; the relevant amending instrument is S.I. 1988/1983.

(e) S.I. 1987/1967; the relevant amending instrument is S.I. 1996/206.

(f) S.I. 1994/2945, to which there are amendments not relevant to this Order.

(g) S.I. 1995/311; the relevant amending instrument is S.I. 1995/987.

(h) S.I. 1995/482; the relevant amending instrument is S.I. 1995/2303.

(i) S.I. 1996/30.

(j) S.I. 1995/310. Paragraph (4) was amended and paragraph (5) was inserted by S.I. 1996/3207.

“(6) The transitional award under paragraph (1) is treated as a decision of the Secretary of State under section 8(1) of the Social Security Act 1998 (decisions by Secretary of State) and as an incapacity decision for the purposes of the Social Security and Child Support (Decisions and Appeals) Regulations 1999(a)”;

- (b) in regulation 17(b) (transitional awards of long-term incapacity benefit) after paragraph (4) add—

“(5) The transitional award under paragraph (1) is treated as a decision of the Secretary of State under section 8(1) of the Social Security Act 1998 (decision by Secretary of State) and as an incapacity decision for the purposes of the Social Security and Child Support (Decisions and Appeals) Regulations 1999.”.◀

Transitional provisions

4. Schedule 14 to this Order shall have effect as from 6th September 1999.

Savings

5. Notwithstanding the coming into force of section 39(3) (Part II of the Administration Act to cease to have effect ▶¹, section 86(2) and Schedule 8 (repeals)◀ or regulation 59 (revocations) of the Regulations—

- (a) sections 18 and 19 of the Administration Act (appeals on questions of law, and review of decisions);
- (b) sections 59 to 61 of, and Schedule 3 to, that Act (regulations about procedural and supplementary matters) as they relate to regulations made in relation to those sections; and
- (c) any regulations made under or in connection with the operation of any of those sections or that Schedule,

¹Words inserted in art. 5 by para. 2(b) of Sch. 20 to S.I. 1999/3178 as from 29.11.99.

shall continue to have effect with respect to any decision given before 6th September 1999 by the Secretary of State under section 17 of that Act (questions for the Secretary of State).

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

2nd September 1999

Angela Eagle
Parliamentary Under-Secretary of State,
Department of Social Security

(a) S.I. 1999/991.

(b) Regulation 17 was amended by S.I. 1996/3207.

SCHEDULE 1

Article 2(c)

PROVISIONS BROUGHT INTO FORCE ON 6TH SEPTEMBER 1999
FOR THE PURPOSES SPECIFIED IN ARTICLE 2(c)

Provision of the Act	Subject matter
Section 1(a)	Transfer of functions of adjudication officers to Secretary of State
Section 2(2)(a)	Use of computers
Section 4(1)(a), in so far as it relates to social security appeal tribunals and medical appeal tribunals, and (2)(a)	Unified appeal tribunals
Section 8(1)(a) and (c), (2), (3)(a), (4) and (5)(a)	Decisions by the Secretary of State
Sections 9 and 10(a)	Revision, and decisions superseding earlier decisions
Section 11(1) and (2), and (3) except the definition of "the current legislation" in so far as it relates to the Jobseekers Act 1995(b) and the Social Security (Recovery of Benefits) Act 1997(c) and the definition of "the former legislation" in so far as it relates to Part II of the Social Security Act 1986	Regulations with respect to decisions, and assistance from experts
Section 12(1)(a) (in so far as it relates to paragraphs 5, 6(a) and 9 of Schedule 2) and (b) (in so far as it relates to paragraphs 1, 2, 3(a) and (c), 4, 5 (except in so far as that paragraph relates to section 71A of the Administration Act(d)), 6 and 9 of Schedule 3), (2), (3), (4) (except in so far as it relates to section 74 of the Administration Act) and (6) to (9)(e)	Appeal to appeal tribunal
Section 13(f)	Redetermination etc. of appeals by appeal tribunal
Section 14(f) and Schedule 4	Appeal from tribunal to Commissioner
Section 15	Appeal from Commissioner on point of law

(a) Sections 8 and 10 are amended by paragraphs 22 and 23 respectively of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) ("the Transfer Act").

(b) 1995 c. 18.

(c) 1997 c. 27.

(d) 1992 c. 5; section 71A was inserted by section 18 of the Jobseekers Act 1995 (c. 18).

(e) Section 12 and Schedule 3 are amended by paragraphs 25 and 36 respectively of Schedule 7 to the Transfer Act.

(f) Sections 13 and 14 are amended by paragraphs 26 and 27 respectively of Schedule 7 to the Transfer Act.

Provision of the Act	Subject matter
Section 16(a) and Schedule 5 Section 17 Sections 18(1) and 19(b)	Procedure Finality of decisions Matters arising as respects decisions, and medical examination required by
Secretary of State Section 20(1), (2) and (3)(a)(c)	Medical examination required by appeal tribunal
Sections 21(c) to 27 (except section 26(8))	Suspension and termination of benefit, decisions and appeals involving issues that arise on appeals in other cases, and restrictions on entitlement in cases of error
Section 28(d) (except subsection (3)(c) to (e))	Correction of errors, and setting aside of decisions
Section 39(d)	Interpretation etc. of Chapter II of Part I of the Act
Schedule 7(e) in the respects specified below and section 86(1) in so far as it relates to them— paragraph 11 paragraph 62	Minor and consequential amendments— provision as to forfeiture Category A and Category B retirement pensions:
supplemental provisions paragraphs 66 to 71(a)	miscellaneous provisions relating to benefits
paragraph 76	incapacity for work: disqualification etc.
paragraph 78	late claims for widowhood benefits
paragraph 79(1)	claims and payments
paragraph 81	overpayments
paragraphs 88 and 89	disclosure of information, and notification of deaths
paragraph 102	financial review and report
paragraphs 107 and 108	reciprocal agreements and travelling expenses
paragraph 109	regulations and orders under the Administration Act
paragraph 112	application to Northern Ireland
paragraph 121(2)(a) and (c)	tribunals under supervision of Council on Tribunals
paragraph 123(1)(a)	judicial pensions - other appointments
paragraph 124(1)(a)	judicial retirement - the relevant offices

- (a) Section 16 was amended by paragraph 28 of Schedule 7 to the Transfer Act.
 (b) Sections 18 and 19 were amended by paragraphs 29 and 30 respectively of Schedule 7 to the Transfer Act.
 (c) Sections 20 and 21 are amended by paragraphs 31 and 32 respectively of Schedule 7 to the Transfer Act.
 (d) Sections 28 and 39 are amended by paragraphs 34 and 35 respectively of Schedule 7 to the Transfer Act.
 (e) Certain provisions of Schedule 7 are repealed by Schedule 10 to the Transfer Act.

¹Schs. 2, 7, 8 and 13
revoked by para. 1(b)
of Sch. 20 to S.I. 1999/
3178 as from 29.11.99.



[Schedule 3 amends regulation 1 of S.I. 1979/642.]

[Schedule 4 amends regulation 2 of S.I. 1979/643.]

[Schedule 5 amends regulation 10 of S.I. 1984/1303.]

[Schedule 6 amends regulations 22A, 71(1) and Schedule 1B of S.I. 1987/1967.]



[Schedule 9 amends regulation 3 of S.I. 1994/2945.]

[Schedule 10 amends regulations 2, 18(2) and Part II of S.I. 1995/311.]

[Schedule 11 amends regulation 19(5) of S.I. 1995/482.]

[Schedule 12 amends regulation 12(3) of S.I. 1996/30.]



SCHEDULE 14

Article 4

TRANSITIONAL PROVISIONS

1. In this Schedule—

“the Adjudication Regulations” means the Social Security (Adjudication) Regulations 1995(a);

“all work test” has the meaning it bears in regulation 2(1) of the Social Security (Incapacity for Work) (General) Regulations 1995(b);

“relevant enactment” has the meaning it bears in section 8(4); and

“medically qualified panel member” and “legally qualified panel member” have the meanings they bear in regulation 1(3) of the Regulations.

2.—(1) Subject to sub-paragraph (4) below, a decision which fell to be made before 6th September 1999 (but which was not made before that date)—

(a) on a claim for; or

(b) under or by virtue of Part II of the Administration Act in relation to,

a relevant benefit (other than a decision which fell to be made on appeal) shall be made by the Secretary of State under paragraph (a) or, as the case may be, paragraph (c) of section 8(1).

(2) Subject to sub-paragraph (4) below, any reference of a disablement question made in relation to a relevant benefit which fell to be determined before 6th September 1999 but which was not determined before that date shall be determined by the Secretary of State.

(3) In sub-paragraph (2) above “disablement question” shall be construed in accordance with section 45 of the Administration Act.

(4) An appeal tribunal shall determine any case referred to a medical appeal tribunal under section 46(3)(b) of the Administration Act for a decision in relation to a relevant benefit which was not determined before 6th September 1999.

(a) S.I. 1995/1801; regulations 3 and 10 were amended by S.I. 1996/182 and 2450.

(b) S.I. 1995/311.

3.—(1) Any application duly made before 6th September 1999 under Part II of the Administration Act for a review of a decision (other than a decision given on appeal) in relation to a relevant benefit which was not decided before that date shall on or after that date be treated as an application to the Secretary of State—

- (a) where the application is made—
 - (i) within three months of the date on which the applicant was notified of the decision, or within such longer period as may be allowed under sub-paragraph (3) below; and
 - (ii) other than on the ground of a relevant change of circumstances, for a revision of that decision under section 9; or
- (b) in any other case, for a decision under section 10 to supersede that decision.

(2) Any application duly made before 6th September 1999 under Part II of the Administration Act for a review of a decision given on appeal in relation to a relevant benefit shall on or after that date be treated as an application to the Secretary of State for a decision under section 10 to supersede that decision.

(3) Subject to sub-paragraphs (4) and (5) below, the period of three months specified in sub-paragraph (1)(a) above may be extended where an application for such an extension is made before 6th October 2000 by a claimant or a person acting on his behalf containing—

- (a) the grounds on which an extension of time is sought; and
- (b) sufficient details of the decision to enable it to be identified.

(4) An application for an extension of time shall not be granted under sub-paragraph (3) above unless the Secretary of State is satisfied that—

- (a) it is reasonable to grant that application;
- (b) the application for review has merit; and
- (c) special circumstances are relevant to the application for extension of time as a result of which it was not practicable for the application for review to be made within three months of the date of the adjudication officer's decision being notified to the claimant.

(5) In deciding whether to grant an extension of time no account shall be taken of the following factors—

- (a) that the claimant or any person acting for him misunderstood or was unaware of the law applicable to his case (including misunderstanding or being unaware of the period specified in sub-paragraph (1)(a) above); or
- (b) that a Commissioner or a court has taken a different view of the law from that previously understood and applied by the adjudication officer.

(6) Where, by virtue of sub-paragraph (1)(b) or (2) above—

- (a) a decision is made under section 10 which is advantageous to the applicant; and
- (b) the same decision could have been made on a review prior to 6th September 1999,

that decision shall take effect from the date on which it would have taken effect had the decision been so made.

4.—(1) A decision (other than a decision of a social security appeal tribunal, a medical appeal tribunal or a Commissioner), made before 6th September 1999—

(a) on a claim for;

▶¹(aa) under or by virtue of Part III of the Social Security Act 1975; or◀

(b) under or by virtue of Part II of the Administration Act in relation to,

a relevant benefit, shall be treated on or after that date as a decision of the Secretary of State under paragraph (a) or, as the case may be, paragraph (c) of section 8(1).

(2) Where, before 6th September 1999, any person was required to give notice to the claimant of a decision referred to in paragraph (1) above, and such notice has not been given to the claimant before that date, the Secretary of State shall on or after that date give notice to the claimant of that decision.

5.—(1) This paragraph applies where the time limit for making an appeal to a social security appeal tribunal or a medical appeal tribunal in respect of a decision in relation to a relevant benefit made before 6th September 1999 has not expired before that date.

(2) Where sub-paragraph (1) applies, regulation 3 of the Adjudication Regulations as it relates to the period within which an appeal may be made, or an extension of that period, shall, notwithstanding regulation 59 of the Regulations, continue to have effect, subject to the modifications in sub-paragraph (3) below, with respect to any appeal to an appeal tribunal made on or after 6th September 1999 in relation to that decision.

(3) The modifications referred to in sub-paragraph (2) above are as if—

(a) references to—

(i) a chairman or a person considering the application were references to a legally qualified panel member;

(ii) a tribunal were references to an appeal tribunal constituted under Chapter I of Part I of the Act;

(b) in paragraph (3E)(a) for the words from “6 years” to the end of the paragraph there were substituted the words “6th October 2000”.

(4) Notwithstanding regulation 3 of the Regulations, the Secretary of State may revise under section 9 a decision given before 6th September 1999 on a claim for or award of a relevant benefit (other than a decision given on appeal)—

(a) pursuant to an application for a review of a decision made within three months of the notification of that decision; or

(b) where an appeal has been duly made against that decision but not determined.

(5) Where a decision is revised pursuant to sub-paragraph (4) above the appeal shall lapse unless the decision as revised is not more advantageous to the appellant than the decision before it was revised.

6. An appeal to a social security appeal tribunal or a medical appeal tribunal in relation to a relevant benefit which was duly made before 6th September 1999 and which has not been determined before that date shall, without prejudice to Chapter III of Part V of the Regulations, be treated on or after that date as an appeal duly made to an appeal tribunal in relation to a decision of the Secretary of State under section 8.

7.—(1) This paragraph applies where a clerk to—

(a) a social security appeal tribunal; or

(b) a medical appeal tribunal,

has before 6th September 1999 given a direction under regulation 22(1) or, as the case may be, 38(1) of the Adjudication Regulations in connection with an appeal in relation to a relevant benefit to that tribunal, and the notification mentioned in paragraph (1A)(b) of that regulation 22 or paragraph (1A)(b) of that regulation 38 has not been received by the clerk before that date.

(a) Paragraph (3E) was inserted by S.I. 1999/182.

(b) Regulation 22(1A) and regulation 38(1A) were inserted by S.I. 1996/2540.

¹Words in para. 4(1)(a) omitted and sub-para. (aa) added by art. 2(4)(a) & (b) of S.I. 2006/2540 as from 16.10.06.

(2) A notification in response to such a direction given under that regulation 22(1) or regulation 38(1) shall be—

- (a) in writing; and
- (b) made within 14 days of receipt of the direction or within such other period as the clerk to an appeal tribunal may direct.

(3) An appeal may be struck out by the clerk to an appeal tribunal where the notification referred to in sub-paragraph (2) above is not received within the period specified in that sub-paragraph.

(4) An appeal which has been struck out in accordance with sub-paragraph (3) above shall be treated for the purpose of reinstatement as if it had been struck out under regulation 46 of the Regulations.

(5) An oral hearing of the appeal shall be held where—

- (a) a notification is received by the clerk to the appeal tribunal under sub-paragraph (2) above; or
- (b) the chairman of the appeal tribunal or, in the case of an appeal tribunal which has only one member, that member is satisfied that such a hearing is necessary to enable the appeal tribunal to reach a decision.

8. Where an appeal to a social security appeal tribunal or a medical appeal tribunal in relation to a relevant benefit has been struck out under regulation 7 of the Adjudication Regulations, a legally qualified panel member may on or after 6th September 1999, on an application made by any party to the proceedings not later than three months from the date of the order under paragraph (1) of that regulation, reinstate the appeal if he is satisfied that—

- (a) the applicant did not receive a notice under paragraph (2) of that regulation; and
- (b) the conditions in paragraph (2A) of that regulation were not satisfied,

and the appeal shall then be treated as an appeal to an appeal tribunal in relation to a decision of the Secretary of State under section 8.

9. An appeal tribunal shall completely rehear any appeal to a social security appeal tribunal or a medical appeal tribunal in relation to a relevant benefit which stands adjourned immediately before 6th September 1999.

10. A copy of a statement of—

- (a) the reasons for a decision of a social security appeal tribunal or, as the case may be, a medical appeal tribunal in relation to a relevant benefit; and
- (b) its findings on questions of fact material thereto,

shall be supplied to each party to the proceedings before that tribunal, if requested by any such party within 21 days of the date on which notification of that decision was given or sent.

11.—(1) Subject to sub-paragraph (2) below, any decision of a social security appeal tribunal or a medical appeal tribunal in relation to a relevant benefit shall be treated as a decision of an appeal tribunal made under section 12.

(2) Where sub-paragraph (1) above applies, any application for leave to appeal which is made for the purposes of section 14(10)(a) shall be made no later than three months after the date on which a copy of the statement of the decision of the social security appeal tribunal or, as the case may be, the medical appeal tribunal was given or sent to the applicant.

12.—(1) Subject to sub-paragraph (3) below, regulation 10 of the Adjudication Regulations, and regulation 3 of those Regulations in so far as it relates to that regulation 10, shall, notwithstanding regulation 59 of the Regulations, continue to have effect, subject to the modifications specified in sub-paragraph (2) below, in relation to any application to set aside a decision of a social security appeal tribunal or a medical appeal tribunal in relation to a relevant benefit.

(2) The modifications referred to in sub-paragraph (1) above are as if in—

- (a) regulation 3 for the reference to a chairman there were substituted a reference to a legally qualified panel member; and
- (b) regulation 10(1) the first reference to the adjudicating authority which gave the decision or to an authority of like status were a reference to an appeal tribunal constituted under Chapter I of Part I of the Act.

(3) Paragraph (1) above shall not apply in any case where an application to set aside a decision of a social security appeal tribunal or a medical appeal tribunal is made after 6th October 2000.

13. Where, immediately before 6th September 1999, payment of a relevant benefit was suspended or withheld by virtue of any provision of Part V of the Social Security (Claims and Payments) Regulations 1987(a) (suspension and extinguishment), the provisions of Chapter I of Part III of the Regulations (suspension and termination) shall apply with respect to that suspension or withholding as if it were a suspension imposed by virtue of those provisions.

14. For the purpose of section 10(1)(b), a decision of a Commissioner made before 6th September 1999 as respects a relevant benefit shall be treated as a decision of a Commissioner made under section 14.

15. A determination of the Secretary of State (including a determination made following a change of circumstances) whether a person is, or is to be treated as, capable or incapable of work shall be conclusive for the purposes of any decision which falls to be made—

- (a) under a relevant enactment; or
- (b) on a claim for or award of—
 - (i) housing benefit; or
 - (ii) council tax benefit.

16.—(1) Where before 29th November 1999, in relation to a determination for any purpose to which Part XIIA of the Contributions and Benefits Act(b) applies, a determination falls to be made as to—

- (a) whether a person is, or is to be treated as, capable or incapable of work in respect of any period; or
- (b) whether a person is terminally ill,

that determination shall be made by the Secretary of State, notwithstanding—

- (i) regulation 1(2)(e) and (f) of the Regulations; and
- (ii) that other matters fall to be determined by another authority.

(2) An appeal shall lapse where the Secretary of State makes a determination pursuant to sub-paragraph (1) above in relation to a case where an appeal against a decision of an adjudication officer has been made but not determined provided that the decision as revised is more advantageous to the appellant than the decision before it was revised.

(a) S.I. 1987/1968; relevant amending instruments are S.I. 1992/247, 1993/2113, 1994/2319 and 1996/1460 and 2306.

(b) Part XIIA was inserted by the Social Security (Incapacity for Work) Act 1994 (c. 18), section 5.

(3) Where—

- (a) the Secretary of State reverses a determination under section 171C of the Contributions and Benefits Act that a person satisfies or is treated as satisfying the all work test; and
- (b) that determination which is reversed is necessary to or embodied in a decision in relation to which Part II of the Administration Act continues to have effect,

an adjudication officer shall revise that decision upon review in consequence of that reversal.

17.—(1) An appeal made by or on behalf of a person against a decision of an adjudication officer (other than a decision in relation to a relevant benefit) which incorporates a determination as to whether the all work test is satisfied or treated as satisfied—

- (a) shall be heard by a social security appeal tribunal which consists of two persons, one being a medically qualified panel member and the other being a legally qualified panel member; and
- (b) may be heard with an appeal made by or on behalf of the same person against a decision of the Secretary of State which incorporates such a determination.

(2) Where an appeal to which sub-paragraph (1) above applies is heard with an appeal to an appeal tribunal—

- (a) section 13 shall not apply in relation to the appeal to the appeal tribunal; and
- (b) notwithstanding regulation 59 of the Regulations, regulation 24 of the Adjudication Regulations and regulation 3 of, and Schedule 2 to, those Regulations in so far as they relate to regulation 24 shall have effect on and after 6th September 1999 in relation to the appeal to the appeal tribunal subject to the modifications specified in sub-paragraph (3) below.

(3) The modifications referred to in sub-paragraph (2) above are as if references in the provisions described in that sub-paragraph to—

- (a) an adjudication officer were to the Secretary of State;
- (b) an appeal tribunal were to an appeal tribunal constituted under Chapter I of Part I of the Act;
- (c) the clerk to the tribunal were to a clerk to an appeal tribunal constituted under Chapter I of Part I of the Act;
- (d) the chairman of an appeal tribunal and a chairman of appeal tribunals were to a chairman of an appeal tribunal constituted under Chapter I of Part I of the Act or, in the case of a tribunal which has only one member, that member; and
- (e) the words “under section 41(4) of the Administration Act” were omitted.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the coming into force on 6th September 1999 of further provisions of the Social Security Act 1998 (“the Act”) so as to introduce on that date - as respects retirement pension, widow’s benefit, incapacity benefit, severe disablement allowance and maternity allowance (“the relevant benefits”) - the new arrangements for decision-making and appeals provided for in Chapter II of Part I of the Act.

From 6th September 1999 the Secretary of State will determine whether claimants are incapable of work for the purposes of claims for or awards of benefit notwithstanding that other matters in relation to such claims or awards fall to be determined by adjudication officers or local authorities (article 2(a) and (b)).

The provisions brought into force by article 2(c) and Schedule 1 relate in particular to the transfer of decision-making functions from adjudication officers to the Secretary of State, and from social security appeal tribunals and medical appeal tribunals to appeal tribunals constituted under Chapter I of Part I of the Act, and provide for the exercise of such functions under the provisions of Chapter II of that Part (which replace the adjudication arrangements currently in force under Part II of the Social Security Administration Act 1992) (“the Administration Act”).

This Order makes consequential amendments in other statutory instruments in so far as they are concerned with, or make reference to, existing arrangements for decision-making and appeals (article 3 and Schedules 3 to 6 and 9 to 11). Certain other provisions are modified in relation to relevant benefits, pending their amendment once Chapter II of Part I is fully in force in relation to all benefits (article 3 and Schedules 2, 7 to 9 and 13).

This Order makes transitional provision, in particular as to—

- (a) the manner in which matters which, immediately before 6th September 1999, are awaiting determination under the existing arrangements for decision-making and appeals; and
- (b) the procedure for determining whether claimants are incapable of work, are to be dealt with on or after that date (article 4 and Schedule 13).

Savings are made as respects certain provisions of the Administration Act and regulations made under them in relation to certain decisions taken by the Secretary of State before 1st April 1999 (article 5).

[See Annex 2 on page 1.3291 for details as to earlier commencements.]