

SCHEDULE 22

Article 4

TRANSITIONAL PROVISIONS IN RELATION TO RELEVANT BENEFITS

1. A decision which fell to be made before 29th November 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 review or 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.—(1) Any application duly made before 29th November 1999 under Part II of the Administration Act for a review of a decision in relation to a relevant benefit which was not decided before that date shall on and after that date be treated as an application to the Secretary of State—

- (a) where the application is not in respect of a decision given on appeal and 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 (2) 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) Subject to sub-paragraphs (3) and (4) 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 29th December 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.

(3) An application for an extension of time shall not be granted under sub-paragraph (2) 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 an 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.

(4) 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.

(5) Where, by virtue of sub-paragraph (1)(b) 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 29th November 1999,

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

*Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999, SCHEDULE 22. (See end of Document for details)*

**3.—(1)** A decision (other than a decision of a social security appeal tribunal or a Commissioner) made before 29th November 1999—

(a) on a claim for; or

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

a relevant benefit shall be treated 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 29th November 1999, any person was required to give notice to the claimant of a decision referred to in sub-paragraph (1) above, and such notice was not given before that date, the Secretary of State shall give notice to the claimant of that decision.

**4.—(1)** This paragraph applies where the time limit for making an appeal to a social security appeal tribunal in respect of a decision in relation to a relevant benefit made before 29th November 1999 has not expired before that date.

(2) Where sub-paragraph (1) above 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 29th November 1999 in relation to that decision.

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

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

(b) in paragraph (3E)<sup>M1</sup>, for the words from “6 years” to the end of the paragraph there were substituted the words “29th December 2000”.

(4) Notwithstanding regulation 3 of the Regulations, the Secretary of State may revise under section 9 a decision made before 29th November 1999 on a claim for or award of a relevant benefit (other than a decision made 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.

#### **Marginal Citations**

**M1** Paragraph (3E) was inserted by [S.I. 1996/182](#).

**5.** An appeal to a social security appeal tribunal in relation to a relevant benefit which was duly made before 29th November 1999 and which was not determined before that date shall, without prejudice to Chapter III of Part V of the Regulations, be treated as an appeal duly made to an appeal tribunal in relation to a decision of the Secretary of State under section 8.

**6.—(1)** This paragraph applies where a clerk to a social security appeal tribunal has before 29th November 1999 given a direction under regulation 22(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)<sup>M2</sup> of that regulation 22 has not been received by the clerk before that date.

(2) A notification in response to such a direction given under that regulation 22(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 tribunal to reach a decision.

#### **Marginal Citations**

**M2** Paragraph (1A) of regulation 22 was inserted by [S.I. 1996/2450](#).

7. Where an appeal to a social security 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 reinstate the appeal on an application by any party to the proceedings made not later than three months from the date of the order under paragraph (1) of that regulation 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 be treated as an appeal to an appeal tribunal in relation to a decision of the Secretary of State under section 8.

8. An appeal tribunal shall completely rehear any appeal to a social security appeal tribunal in relation to a relevant benefit which stands adjourned immediately before 29th November 1999.

9. A copy of a statement of—

- (a) the reasons for a decision of a social security 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.

10.—(1) Subject to sub-paragraph (2) below, any decision of a social security 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—

- (a) made no later than three months after the date on which a copy of the statement of the reasons for the decision of the social security appeal tribunal was given or sent to the applicant; and
- (b) determined by a legally qualified panel member.

**Changes to legislation:** There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999, SCHEDULE 22. (See end of Document for details)

**11.**—(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 in relation to a relevant benefit.

(2) The modifications referred to in sub-paragraph (1) above are as if in regulation 3 for the reference to a chairman and in regulation 10(1) the first reference to the adjudicating authority which gave the decision and to an authority of like status, there were substituted references to a legally qualified panel member.

(3) Paragraph (1) above shall not apply in any case where an application to set aside a decision of a social security appeal tribunal is made after 29th December 2000.

**12.** Where, immediately before 29th November 1999, a payment of relevant benefit was suspended or withheld by virtue of any provision of Part V of the Social Security (Claims and Payments) Regulations 1987<sup>M3</sup> (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.

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**Marginal Citations**

**M3** [S.I. 1987/1968](#); relevant amending instruments are [S.I. 1992/247](#), 1993/2113, 1994/2319 and 1996/1460 and 2306.

**13.** For the purpose of section 10(1)(b), a decision of a Commissioner made before 29th November 1999 in relation to a relevant benefit shall be treated as a decision of a Commissioner made under section 14.

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999, SCHEDULE 22.