

SCHEDULE 9

Article 3(9)

AMENDMENT OF THE SOCIAL SECURITY (PAYMENTS ON ACCOUNT, OVERPAYMENTS AND RECOVERY) REGULATIONS 1988

1. In regulation 1(2)(1) (interpretation), for the definition of “adjudicating authority” there shall be substituted the following definition—

““adjudicating authority” means, as the case may require, the Secretary of State, an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998 or a Commissioner within the meaning of section 39(1) of that Act;”.

2. In regulation 2(1)(2) (making of interim payments), for the words “a reference, review,” there shall be substituted the word “an”.

3. In regulation 5(2) (offsetting prior payment against subsequent award)—

(a) for Case 1 there shall be substituted the following case—

“Case 1: Payment pursuant to a decision which is revised or superseded, or overturned on appeal

Where a person has been paid a sum by way of benefit pursuant to a decision which is subsequently revised under section 9 of the Social Security Act 1998, superseded by a decision under section 10 of that Act or overturned on appeal”; and

(b) in Case 2, the words “, on review or appeal,” shall be omitted.

4. In regulation 8(2)(3) (duplication of prescribed payments), for the words “on review” there shall be substituted the words “by way of revision or supersession”.

5. In the heading to Part VI, the words “REVISION OF DETERMINATION AND” shall be omitted.

6. In regulation 12 (circumstances in which determination need not be revised)—

(a) in the heading, for the word “revised” there shall be substituted the words “reversed, varied, revised or superseded”;

(b) for the words “or revision of determination” there shall be substituted the words “, revision or supersession”; and

(c) for the words “for reviewing and revising the determination under which payment was made” there shall be substituted the words “for the decision pursuant to which the payment was made to be revised under section 9 of the Social Security Act 1998 or superseded under section 10 of that Act”.

7. In regulation 23 (increase of amount of award on appeal or review)—

(a) in the heading, for the word “review” there shall be substituted the word “otherwise”;

(b) for the words “on review by an adjudicating authority” there shall be substituted the word “otherwise”; and

(c) for the words “were the earnings subsequently reviewed under regulation 24” there shall be substituted the words “, where a notice of variation of protected earnings is given under regulation 24, were the earnings stated in that notice”.

8. In regulation 24(4) (review of determination of protected earnings)—

(1) Regulation 1(2) was amended by S.I. 1988/1725, 1989/136, 1991/2742, 1995/829 and 1996/1345.

(2) Regulation 2(1) was amended by S.I. 1996/30.

(3) Regulation 8(2) was amended by S.I. 1996/1345.

(4) Regulation 24 was amended by S.I. 1988/688.

**Status:** This is the original version (as it was originally made).

- (a) for the heading there shall be substituted the heading “Notice of variation of protected earnings”;
- (b) paragraph (1) shall be omitted; and
- (c) for paragraph (2) there shall be substituted the following paragraph–

“**(2)** The Secretary of State shall give a claimant’s employer written notice varying the deduction notice where a decision as to a claimant’s protected earnings is revised or superseded.”.

**9.** In regulation 25(2)(b) (power to serve further deduction notice on resumption of employment), for the words “reviewed under regulation 24” there shall be substituted the word “varied”.

**10.** In regulation 26 (right of Secretary of State to recover direct from claimant), for the words from “the Secretary of State has” to “for him” there shall be substituted the words “, at any time, it is not practicable for the Secretary of State”.