
STATUTORY INSTRUMENTS

1999 No. 991

**The Social Security and Child Support
(Decisions and Appeals) Regulations 1999**

PART II

REVISIONS, SUPERSESSIONS AND OTHER MATTERS SOCIAL SECURITY

CHAPTER III

OTHER MATTERS

Certificates of recoverable benefits

9. A certificate of recoverable benefits may be reviewed under section 10 of the 1997 Act⁽¹⁾ where the Secretary of State is satisfied that—

- (a) a mistake (whether in computation of the amount specified or otherwise) occurred in the preparation of the certificate;
- (b) the benefit recovered from a person who makes a compensation payment (as defined in section 1 of the 1997 Act) is in excess of the amount due to the Secretary of State;
- (c) incorrect or insufficient information was supplied to the Secretary of State by the person who applied for the certificate and in consequence the amount of benefit specified in the certificate was less than it would have been had the information supplied been correct or sufficient; or
- (d) a ground for appeal is satisfied under section 11 of the 1997 Act⁽²⁾.

Effect of a determination as to capacity for work

10. A determination (including a determination made following a change of circumstances) whether a person is, or is to be treated as, capable or incapable of work which is embodied in or necessary to a decision under Chapter II of Part I of the Act or on which such a decision is based shall be conclusive for the purposes of any further such decision.

Secretary of State to determine certain matters

11. Where, in relation to a determination for any purpose to which Part XIII A of the Contributions and Benefits Act applies, an issue arises 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,

(1) Section 10 was amended by paragraph 149 of Schedule 7 to the Social Security Act 1998.

(2) Section 11 was amended by paragraph 150 of Schedule 7 to the Social Security Act 1998.

that issue shall be determined by the Secretary of State, notwithstanding that other matters fall to be determined by another authority.

Decision of the Secretary of State relating to industrial injuries benefit

12.—(1) This regulation applies where, for the purpose of a decision of the Secretary of State relating to a claim for industrial injuries benefit under Part V of the Contributions and Benefits Act an issue to be decided is—

- (a) the extent of a personal injury for the purposes of section 94 of that Act;
- (b) whether the claimant has a disease prescribed for the purposes of section 108 of that Act or the extent of any disablement resulting from such a disease; or
- (c) whether the claimant has a disablement for the purposes of section 103 of that Act or the extent of any such disablement.

(2) In connection with making a decision to which this regulation applies, the Secretary of State may refer an issue, together with any relevant evidence or information available to him, including any evidence or information provided by or on behalf of the claimant, to a medical practitioner who has experience in such of the issues specified in paragraph (1) as are relevant to the decision, for such report as appears to the Secretary of State to be necessary for the purpose of providing him with information for use in making the decision.

(3) In making a decision to which this regulation applies, the Secretary of State shall have regard to (among other factors)—

- (a) all relevant medical reports provided to him in connection with that decision; and
- (b) the experience, in such of the issues specified in paragraph (1) as are relevant to the decision, of any medical practitioner who has provided a report, including a medical practitioner who has provided a report following an examination required by the Secretary of State under section 19.

Income support and social fund determinations on incomplete evidence

13.—(1) Where, for the purpose of a decision under section 8 or 10—

- (a) a determination falls to be made by the Secretary of State as to what housing costs are to be included in a claimant's applicable amount by virtue of regulation 17(1)(e) or 18(1)(f) of, and Schedule 3 to, the Income Support Regulations; and
- (b) it appears to the Secretary of State that he is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

he shall make the determination on the assumption that the housing costs to be included in the claimant's applicable amount are those that can be immediately determined.

(2) Where, for the purpose of a decision under section 8 or 10—

- (a) a determination falls to be made by the Secretary of State as to whether—
 - (i) in relation to any person, the applicable amount falls to be reduced or disregarded to any extent by virtue of section 126(3) of the Contributions and Benefits Act (persons affected by trade disputes);
 - (ii) for the purposes of regulation 12 of the Income Support Regulations, a person is by virtue of that regulation to be treated as receiving relevant education; or
 - (iii) in relation to any claimant, the applicable amount includes severe disability premium by virtue of regulation 17(1)(d) or 18(1)(e), and paragraph 13 of Schedule 2 to, the Income Support Regulations; and

(b) it appears to the Secretary of State that he is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,
he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.

Effect of alteration in the component rates of income support and jobseeker's allowance

14.—(1) Section 159 of the Administration Act (effect of alteration in the component rates of income support) shall not apply to any award of income support in force in favour of a person where there is applicable to that person—

- (a) any amount determined in accordance with regulation 17(2) to (7) of the Income Support Regulations; or
- (b) any protected sum determined in accordance with Schedule 3A or 3B of those Regulations⁽³⁾; or
- (c) any transitional addition, personal expenses addition or special transitional addition applicable under Part II of the Income Support (Transitional) Regulations 1987⁽⁴⁾ (transitional protection).

(2) Where section 159 of the Administration Act does not apply to an award of income support by virtue of paragraph (1), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made by an order under section 150 of the Administration Act.

(3) Section 159A of the Administration Act⁽⁵⁾ (effect of alterations in the component rates of jobseeker's allowance) shall not apply to any award of a jobseeker's allowance in force in favour of a person where there is applicable to that person any amount determined in accordance with regulation 87 of the Jobseeker's Allowance Regulations.

(4) Where section 159A of the Administration Act does not apply to an award of a jobseeker's allowance by virtue of paragraph (3), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made by an order under section 150 of the Administration Act.

Jobseeker's allowance determinations on incomplete evidence

15. Where, for the purpose of a decision under section 8 or 10—

- (a) a determination falls to be made by the Secretary of State as to whether—
 - (i) in relation to any person, the applicable amount falls to be reduced or disregarded to any extent by virtue of section 15 of the Jobseekers Act (persons affected by trade disputes); or
 - (ii) for the purposes of regulation 54(2) to (4) of the Jobseeker's Allowance Regulations (relevant education), a person is by virtue of that regulation, to be treated as receiving relevant education; and
- (b) it appears to the Secretary of State that he is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.

(3) Schedule 3A was inserted by S.I.1988/1445; Schedule 3B was inserted by S.I. 1989/534.

(4) S.I. 1987/1969.

(5) Section 159A was inserted by section 24 of the Jobseekers Act 1995 (c. 18).