
STATUTORY INSTRUMENTS

2004 No. 3368

**The Social Security, Child Support and Tax Credits
(Decisions and Appeals) Amendment Regulations 2004**

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999

2.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999(1) shall be amended in accordance with this regulation.

(2) In regulation 1(3) (interpretation) the definition of “misconceived appeal” shall be omitted.

(3) In regulation 25(2) (other persons with a right of appeal) for “section 12(2)(b)”(3) there shall be substituted “section 12(2)”.

(4) In regulation 36(4) (composition of appeal tribunals)—

(a) in paragraph (2) for “, (8) and (9)” substitute “and (8)”,

(b) in paragraph (5) for “, (3) or (9)” substitute “or (3)”, and

(c) omit paragraph (9) (misconceived appeals).

(5) In regulation 39 (directions concerning oral hearings) for the heading and paragraphs (1) to (4) substitute—

“Choice of hearing

39.—(1) Where an appeal or a referral is made to an appeal tribunal the appellant and any other party to the proceedings shall notify the clerk to the appeal tribunal, on a form approved by the Secretary of State, whether he wishes to have an oral hearing of the appeal or whether he is content for the appeal or referral to proceed without an oral hearing.

(2) Except in the case of a referral, the form shall include a statement informing the appellant that, if he does not notify the clerk to the appeal tribunal as required by paragraph (1) within the period specified in paragraph (3), the appeal may be struck out in accordance with regulation 46(1).

(3) Notification in accordance with paragraph (1)—

(a) if given by the appellant or a party to the proceedings other than the Secretary of State, must be sent or given to the clerk to the appeal tribunal within 14 days of the date on which the form is issued to him; or

(b) if given by the Secretary of State, must be sent or given to the clerk—

(i) in the case of an appeal, within 14 days of the date on which the form is issued to the appellant; or

(ii) in the case of a referral, on the date of referral,

(1) S.I. 1999/991.

(2) Regulation 25 was amended by S.I. 1999/2570 and 2002/1379.

(3) Section 12(2) of the Social Security Act 1998 (c. 14) was substituted by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Schedule 7, paragraph 25.

(4) Regulation 36 was amended by S.I. 1999/1466 and 2000/1596.

or within such longer period as the clerk may direct.

(4) Where an oral hearing is requested in accordance with paragraphs (1) and (3) the appeal tribunal shall hold an oral hearing unless the appeal is struck out under regulation 46(1).”.

(6) In regulation 46 (appeals which may be struck out)—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (b) omit “or”,

(ii) in sub-paragraph (c) omit “subject to regulation 39(4),” and after “struck out” add “; or”, and

(iii) after sub-paragraph (c) add—

“(d) for failure of the appellant to notify the clerk to the appeal tribunal, in accordance with regulation 39, whether or not he wishes to have an oral hearing of his appeal.”, and

(b) omit paragraph (4) (misconceived appeals).

(7) In regulation 47(5) (reinstatement of struck out appeals)—

(a) in paragraph (1) for “46(1)(c)” substitute “46(1)(d)”,

(b) in paragraph (2)—

(i) omit “or 48”, and

(ii) omit sub-paragraph (b).

(8) Omit regulation 48 (misconceived appeals).

(9) In Schedule 2 (decisions against which no appeal lies), in paragraph 5(6) (claims and payments)—

(a) for sub-paragraph (a) substitute—

“(a) regulation 4(3) or (3B)(7) (which partner should make a claim for income support or jobseeker’s allowance);”,

(b) omit sub-paragraphs (b), (c), (d) and (e), and

(c) for sub-paragraph (bb)(8) substitute—

“(bb) regulation 4D(7)(9) (which partner should make a claim for state pension credit);”.

(5) Regulation 47 was amended by S.I. 2000/1596 and 2002/1379.

(6) Paragraph 5 was substituted by S.I. 2002/1379 and amended by S.I. 2003/1581.

(7) Paragraph (3) was amended by S.I. 1996/2431 and paragraph (3B) was inserted by S.I. 1996/1460.

(8) Sub-paragraph (bb) was inserted by S.I. 2003/1581.

(9) Regulation 4D was inserted by S.I. 2002/3019.