

**2005 No. 34**

**SOCIAL SECURITY**

**The Social Security (Claims and Payments and Payments on account, Overpayments and Recovery) Amendment Regulations 2005**

<i>Made</i> - - - -	<i>11th January 2005</i>
<i>Laid before Parliament</i>	<i>17th January 2005</i>
<i>Coming into force</i> - -	<i>2nd May 2005</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 5(1)(a), 71(4), 189(1), (4) and (6) and 191 of the Social Security Administration Act 1992(a) and after agreement by the Social Security Advisory Committee that proposals in respect of these Regulations should not be referred to it (b), hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Claims and Payments and Payments on account, Overpayments and Recovery) Amendment Regulations 2005 and shall come into force on 2nd May 2005.

**Amendment of the Social Security (Claims and Payments) Regulations 1987**

2.—(1) The Social Security (Claims and Payments) Regulations 1987(c) shall be amended in accordance with the following paragraphs.

(2) In regulation 4 (making a claim for benefit)—

(a) in paragraph (1)(d) for “Every” substitute “Subject to paragraphs (10)(e) and (11), every”; and

(b) after paragraph (10), add—

“(11) A claim for graduated retirement benefit or retirement pension may be made by telephone call to the telephone number specified by the Secretary of State, unless the Secretary of State directs, in any particular case, that the claim must be made in writing.

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(a) 1992 c. 5. Section 191 is cited for the meaning ascribed to the word “prescribe”.  
(b) See the Social Security Administration Act 1992, s.173(1)(b).  
(c) S.I. 1987/1968.  
(d) Paragraph (1) was amended by S.I. 1992/247 and 1997/793.  
(e) Paragraph (10) was inserted by S.I. 2002/3019.

(12) A claim made by telephone in accordance with paragraph (11) is defective unless the Secretary of State is provided, during that telephone call, with all the information he requires to determine the claim.

(13) Where a claim made by telephone is defective, the Secretary of State may refer the claim to the person making it.

(14) If the person corrects the defect within one month, or such longer period as the Secretary of State considers reasonable, of the date he referred the claim to the person, the Secretary of State shall treat the claim as if it had been duly made in the first instance.”

(3) In regulation 5(1) (amendment and withdrawal of claim), after “office”, insert “except where the claim was made by telephone, in accordance with regulation 4(11), where the amendment may be made by telephone,”.

(4) In regulation 6(1)(a) (date of claim), after sub-paragraph (b) insert—

“(c) in the case of a claim made by telephone in accordance with regulation 4(11), the date of that telephone call;

(d) in the case of a claim made by telephone which is defective but which is treated, under regulation 4(14) as having been duly made, the date of that telephone call.”.

### **Amendment of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988**

3. In regulation 11(2) of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988(b) (recovery of overpayments by automated or other direct credit transfer), for sub-paragraph (b), substitute—

“(b) notice of the effect which this regulation would have, in the event of an overpayment, was given to the beneficiary or to a person acting for him—

(i) in writing, where the claim was made in writing; or

(ii) either orally or in writing, where the claim was made by telephone before he agreed to the arrangement.”.

Signed by authority of the Secretary of State for Work and Pensions.

11th January 2005

*Malcolm Wicks*  
Minister of State,  
Department for Work and Pensions

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(a) Paragraph (1) was amended by S.I. 1990/725, 1997/793 and 2000/897.

(b) S.I. 1988/664; Regulation 11 was amended by S.I. 1999/2571.

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Claims and Payments) Regulations 1987 and the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988.

Regulation 2(2) enables a person to make a claim for graduated retirement benefit and retirement pension by telephone unless the Secretary of State directs that the claim must be made in writing.

Regulation 2(3) enables a person who has made such a claim to amend it by telephone.

Regulation 2(4) provides for the date of a claim for graduated retirement benefit or retirement pension made by telephone.

Regulation 3 enables the Secretary of State to give notice of the effect regulation 11 of the Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 would have, in the event of an overpayment, to a person who makes a claim for retirement pension and graduated retirement benefit by telephone, either orally or in writing.

These Regulations do not impose a charge on business.

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