

EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (MISCELLANEOUS AMENDMENTS) (No. 2)

REGULATIONS 2009

2009 No. 1490

1. This explanatory memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

2.1 The purpose of the instrument is to ensure: (i) that the department's legislation supports its changing policy on how claims for benefit are made ie more telephone claims; (ii) that the rules for changing benefit decisions more accurately reflect what customers do in relation to claiming benefit in particular circumstances.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

4. **Legislative Context**

4.1 The amendments in the main reflect the department's move towards claims for benefit being made by telephone - the existing provisions deal adequately with written applications but these do not automatically read across to telephone claims. But amendments are also required because the department's decision makers have identified errors and gaps eg where Employment and Support Allowance has been terminated and where Jobseeker's Allowance is claimed after Income Support is terminated - more details are in para 7 below, in those provisions which allow decisions to be changed.

5. **Territorial Extent and Application**

5.1 The instrument applies to Great Britain. Equivalent provision will be made for Northern Ireland by statutory rules.

6. **European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

What is being done and why?

7.1 The administration of benefits is hugely complex and accordingly the department is constantly looking at ways which will simplify, rationalise and streamline the process to the benefit of its customers, processors and decision makers. Key to this is the department's handling of claims for benefit and its subsequent decision making. The amendments reflect concerns which have been raised by policy administrators and decision makers.

7.2 On the claims side the main changes being made are as follows: to improve the efficiency of its post sorting the department will be contracting out some of this work and to this end the office where claims and other documents can be lodged is extended beyond "an office of the Department for Work and Pensions" to include a PO Box mailing address where specified by the Secretary of State; the circumstances where a benefit can be awarded without first requiring a claim is also extended – to include where the customer is already entitled to Category A Retirement Pension or Graduated Retirement Benefit and their spouse or civil partner dies with an entitlement to a Category A Retirement Pension at the date of death; there will be a discretion to accept claims for Income Support and Jobseeker's Allowance by telephone in individual cases; the rules relating to the acceptance of and date of claim of telephone claims and those relating to written claims have been brought closer together; finally, the rules around the payment of bail hostel charges by deduction from benefits will change so that, unlike the current position, there is no prior need for Housing Benefit to have been claimed for the payments to be made.

7.3 On the decision making side the main changes being made are as follows: a provision allowing a decision made in respect of Employment and Support Allowance to be changed is being removed because it inaccurately reflects the law; a new provision is being added which will ensure that where a customer has claimed Jobseeker's Allowance after his claim for Incapacity Benefit or Income Support, paid on the basis of incapacity, has been terminated and he has appealed that decision and is successful, the decision on the claim for Jobseeker's Allowance can be changed so that the arrears due because of the successful appeal can be paid in full.

Consolidation

7.4 Informal consolidation of this instrument will be included in due course in the Department's "the law relating to Social Security" (the Blue Volumes) which are available at no cost to the public on the internet at:
<http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/>
It is also the Department's intention to consolidate the Claims and Payments Regulations in the next two years.

8. Consultation outcome

8.1 The only consultation that was legally required was by Social Security Advisory Committee - under the provisions of section 173 of the Social Security Administration Act 1992. The Committee in turn decided that it did not require the regulations to be formally referred to it for the preparation of a report to the Secretary of State for Work and Pensions and, accordingly, it did not conduct a public consultation exercise upon the proposals.

9. Guidance

Informal consolidation of this instrument will be included in due course in the Department's "the law relating to Social Security" (the Blue Volumes) which are available at no cost to the public on the internet at: <http://www.dwp.gov.uk/advisers/docs/lawvols/bluevol/>. A Decisions Makers Guide Memo will be drafted and will be available on the department's website. <http://www.dwp.gov.uk/publications/dwp/dmg/> The Housing Benefit amendments will be included in a HB Circular and again this will be available on the Department's website. <http://www.dwp.gov.uk/housingbenefit/claims-processing/operational-manuals/hbgm/>

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There is negligible impact on the public sector.
- 10.3 A full impact assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Jobcentre Plus will monitor the impact of the allowing the Secretary of State discretion to accept telephone claims for Income Support and Jobseeker's Allowance in individual cases. The Pension, Disability and Carers Service will monitor the operational aspect of designating outside contractors to handle their incoming post.

13. Contact

Paul Mackrell at the Department for Work and Pensions tel : 020 7962 8021 or email: paul.mackrell@dwp.gsi.gov.uk can answer any queries regarding the amendments to

the Claims and Payments Regulations. For any queries relating to the amendments to the Decisions and Appeals Regulations, Lyndon Walters should be contacted (tel: 020 7962 8047 or email: lyndon.walters@dpw.gsi.gov.uk).