STATUTORY INSTRUMENTS

2011 No. 1498

SOCIAL SECURITY

The Social Security (Electronic Communications) Order 2011

Made - - - - 14th June 2011

Coming into force in accordance with Article 1

The Secretary of State for Work and Pensions, considering that the authorisation of the use of electronic communications by this Order for any purpose is such that the extent (if any) to which records of things done for that purpose will be available will be no less satisfactory in cases where use is made of electronic communications than in other cases, makes the following Order in exercise of the powers conferred by sections 8 and 9 of the Electronic Communications Act 2000(**1**).

A draft of this instrument was laid before Parliament in accordance with section 9(4) of the Electronic Communications Act 2000 and approved by a resolution of each House of Parliament.

Citation and commencement

1.—(1) This Order may be cited as the Social Security (Electronic Communications) Order 2011 and, except as provided in paragraph (2), it comes into force on 20th June 2011.

(2) Article 2 and 4(2) come into force on 1st February 2012.

Amendment of the Jobseekers Act 1995

2.—(1) The Jobseekers Act 1995(**2**) is amended as follows.

(2) After section 9(3) (the jobseeker's agreement)(**3**), insert—

"(3A) The agreement may be in electronic form and signed by means of an electronic signature (within the meaning given in section 7(2) of the Electronic Communications Act 2000).".

(3) After section 10(2) (variation of jobseeker's agreement)(**4**), insert—

(**1**) 2000 c. 7. The power in section 8 is vested in "the appropriate Minister". By virtue of section 9(1)(a), the Secretary of State is "the appropriate Minister" in relation to any matter with which a department of the Secretary of State is concerned.

(**2**) 1995 c. 18.

(**3**) Section 9 was amended by section 86 of the Social Security Act 1998 (c. 14) and by section 59 of the Welfare Reform and Pensions Act 1999 (c. 30) and is amended by sections 4, 31, 32 and 58 of the Welfare Reform Act 2009 (c. 24), on a date to be appointed.

(**4**) Section 10 was amended by section 86 of the Social Security Act 1998 and is amended by sections 4 and 32 of the Welfare Reform Act 2009, on a date to be appointed.

"(2A) Any agreement to vary a jobseeker's agreement may be in electronic form and signed by means of an electronic signature (within the meaning given in section 7(2) of the Electronic Communications Act 2000).".

Amendment of the Jobseeker's Allowance Regulations 1996

3.—(1) The Jobseeker's Allowance Regulations 1996(**5**) are amended as follows.

(2) In regulation 1 (interpretation), after paragraph (5) insert—

"(6) In such cases and subject to such conditions or requirements as the Secretary of State may specify by means of a direction, any requirement imposed by or under these Regulations for a signature may be satisfied by means of an electronic signature (within the meaning given in section 7(2) of the Electronic Communications Act 2000.)".

(3) After regulation 24A (alternative means of notifying changes of circumstances)(**6**) insert—

"**Information given electronically**

24B.—(1) A person may give any certificate, notice, information or evidence required to be given and in particular may give notice of a change of circumstances required to be notified under regulation 24 by means of an electronic communication, in accordance with the provisions set out in Schedule 9ZC to the Claims and Payments Regulations.

(2) In this regulation, "electronic communication" has the meaning given in section 15(1) of the Electronic Communications Act 2000."(**7**).

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

4.—(1) The Social Security (Claims and Payments) Regulations 1987(**8**) are amended as follows.

(2) In regulation 4ZC(2) (electronic claims for benefit)(**9**), after "graduated retirement benefit," insert "a jobseeker's allowance,".

(3) For regulation 32ZA(2) (information given electronically)(**10**) substitute—

"(2) This regulation applies in relation to an award of—

(a) attendance allowance;

(b) carer's allowance;

(c) disability living allowance;

(d) an employment and support allowance;

(e) income support;

(f) a jobseeker's allowance.".

(4) In paragraph 2(1) (conditions for the use of electronic communication) of Schedule 9ZC (electronic communication)(**11**)—

(a) after "graduated retirement benefit," insert "a jobseeker's allowance,";

(b) at the end insert "and in connection with awards of an employment and support allowance and income support".

(**5**) S.I. 1996/207.
(**6**) Regulation 24A was inserted by S.I. 2010/ 444.
(**7**) Section 15(1) of the Electronic Communications Act 2000 (c.7) was amended by paragraph 158 of Schedule 17 to the Communications Act 2003 (c. 21).
(**8**) S.I.1987/1968.
(**9**) Regulation 4ZC was inserted by S.I. 2003/2800 and was amended by S.I. 2005/3321.
(**10**) Regulation 32ZA was inserted by S.I. 2003/2800.
(**11**) Schedule 9ZC was inserted by S.I. 2003/2800 and was amended by S.I. 2005/3321.

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

5.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999(**12**) are amended as follows.

(2) In regulation 1(3) (interpretation) in the definition of "the date of notification"(**13**)—

(a) at the end of paragraph (a) omit "or";

(b) after paragraph (b) insert—

"; or

(c) where notification of a decision of the Secretary of State is sent by means of an electronic communication (within the meaning given in section 15(1) of the Electronic Communications Act 2000), the date on which the notification is sent.".

Amendment of the Social Security (Notification of Change of Circumstances) Regulations 2001

6.—(1) The Social Security (Notification of Change of Circumstances) Regulations 2001(**14**) are amended as follows.

(2) In regulation 3 (change affecting jobseeker's allowance)(**15**)—

(a) in paragraph (1) for "paragraph (1A)" substitute, "paragraphs (1ZA) and (1A)";

(b) after paragraph (1) insert—

"(1ZA) Where the notice in writing referred to in paragraph (1) is given or sent by an electronic communication that notice must be given or sent in accordance with the provisions set out in Schedule 9ZC to the Social Security (Claims and Payments) Regulations 1987 (electronic communication).".

(3) In regulation 5 (change affecting other benefit payment or advantage)(**16**)—

(a) in paragraph (1) for "paragraph (1ZZA)" substitute, "paragraphs (1ZZA) and (1ZA)";

(b) for paragraph (1ZB) substitute—

"(1ZB) Paragraph (1ZA) applies in relation to—

(a) attendance allowance;

(b) carer's allowance;

(c) disability living allowance;

(d) an employment and support allowance;

(e) income support.".

(**12**) S.I. 1999/991.
(**13**) A relevant amending instrument is S.I. 1999/2570.
(**14**) S.I. 2001/3252.
(**15**) Regulation 3 was amended by S.I. 2006/832 and 2010/444.
(**16**) Regulation 5 was amended by S.I. 2002/1789, 2003/492, 2003/2800, 2003/3209 and 2010/444.

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

C Grayling
Minister of State
Department for Work and Pensions

14th June 2011

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Jobseekers Act 1995, the Jobseeker's Allowance Regulations 1996 ("the Jobseeker's Allowance Regulations"), the Social Security (Claims and Payments) Regulations 1987 ("the Claims and Payments Regulations"), the Social Security and Child Support (Decisions and Appeals) Regulations 1999 ("the Decisions and Appeals Regulations") and the Social Security (Notification of Change of Circumstances) Regulations 2001 ("the Notification of Change of Circumstances Regulations") so as to facilitate the use of electronic communications and electronic storage in the case of a jobseeker's allowance and certain other benefits.

Article 2 amends the Jobseekers Act 1995 to enable a jobseeker's agreement and any agreement to vary a jobseeker's agreement to be in an electronic form and signed by electronic means.

Article 3(2) amends the Jobseeker's Allowance Regulations to enable signatures to be given electronically.

Article 3(3) inserts a new regulation 24B in the Jobseeker's Allowance Regulations which enables a person to give any certificate, notice, information or evidence, including notice of a change of circumstances, relating to a jobseeker's allowance by means of an electronic communication, subject to the provisions of Schedule 9ZC (electronic communication) to the Claims and Payments Regulations.

Schedule 9ZC sets out the conditions to be satisfied where information, including a change of circumstances, is notified by means of an electronic communication and makes other provisions which apply to electronic communications. The conditions to be satisfied include conditions relating to the circumstances in which a person is authorised to use an electronic communication and relating to the form and method of communication.

Article 4(2) amends regulation 4ZC(2) of the Claims and Payments Regulations so as to authorise the use of electronic communication in connection with making claims for a jobseeker's allowance, subject to the provisions of Schedule 9ZC.

Article 4(3) extends the scope of regulation 32ZA of the Claims and Payments Regulations so that it applies to awards of attendance allowance, disability living allowance, an employment and support allowance, a jobseeker's allowance and income support, as well as carer's allowance. Regulation 32ZA provides for the giving of certificates, notices, information and evidence, including notice of a change of circumstances, by means of an electronic communication, subject to the provisions of Schedule 9ZC.

Article 4(4) amends Schedule 9ZC so as to authorise the Secretary of State to use electronic communications in connection with claims for, and awards of, a jobseeker's allowance and in connection with awards of an employment and support allowance and income support.

Article 5 amends the definition of "date of notification" in the Decisions and Appeals Regulations so that it applies to decisions notified by means of an electronic communication.

Article 6 makes consequential changes to the Notification of Change of Circumstances Regulations which prescribe the person to whom and manner in which a change of circumstances must be notified for the purposes of sections 111A and 112 of the Social Security Administration Act 1992 (offences relating to failure to notify a change of circumstances).

A copy of the directions referred to in Schedule 9ZC to the Claims and Payments Regulations is available on the Department for Work and Pensions publicly accessible website at: http://www.dwp.gov.uk.

A full impact assessment has not been produced for this instrument as it has no impact on the private sector or civil society organisations.