
STATUTORY INSTRUMENTS

1987 No. 1968

SOCIAL SECURITY

The Social Security (Claims and Payments) Regulations 1987

Made - - - - - *20th November 1987*

Coming into force - - - *11th April 1988*

Whereas a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament:

Now therefore, the Secretary of State for Social Services, in exercise of the powers conferred by sections 165A and 166(2) of the Social Security Act 1975⁽¹⁾, section 6(1) of the Child Benefit Act 1975⁽²⁾, sections 21(7), 51(1)(a) to (s), 54(1) and 84(1) of the Social Security Act 1986⁽³⁾ and, as regards the revocations set out in Schedule 10 to this instrument, the powers specified in that Schedule, and all other powers enabling him in that behalf, by this instrument which contains only regulations made under the sections of the Social Security Act 1986 specified above and provisions consequential on those sections and which is made before the end of a period of 12 months from the commencement of those sections, makes the following Regulations:—

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Social Security (Claims and Payments) Regulations 1987 and shall come into operation on 11th April 1988.

Interpretation

2.—(1) In these Regulations, unless the context otherwise requires—

“adjudicating authority” means any person or body with responsibility under the Social Security Acts 1975 to 1986, and regulations made thereunder, for the determination of claims

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- (1) 1975 c. 14. Section 165A was substituted by paragraph 87 of Schedule 10 to the Social Security Act 1986 and section 166(2) is applied to powers to make regulations under that Act by section 83(1) of that Act.
- (2) 1975 c. 61. Section 6(1) was amended by paragraph 96 of Schedule 10 to the Social Security Act 1986.
- (3) 1986 c. 50; section 51 has effect, by Schedule 7, paragraph 3, in relation to benefits under earlier Acts as well as benefits specified in section 51(2); and section 84(1) is cited because of the meaning which it ascribes to the words “prescribed” and “regulations”.

for benefit and questions arising in connection with a claim for, or award of, or disqualification for receiving benefits;

“appropriate office” means an office of the Department of Health and Social Security or the Department of Employment;

“claim for benefit” includes—

- (a) an application for a declaration that an accident was an industrial accident;
- (b) a claim for attendance allowance expressed as an application for review of an earlier determination but which discloses no grounds on which such a determination could be reviewed;
- (c) an application for the review of an award or a decision for the purpose of obtaining any increase of benefit, but does not include any other application for the review of an award or a decision;

“long-term benefits” means any retirement pension, a widowed mother’s allowance, a widow’s pension, attendance allowance, mobility allowance, invalid care allowance, guardian’s allowance, any pension or allowance for industrial injury or disease and any increase in any such benefit;

“married couple” means a man and a woman who are married to each other and are members of the same household;

“partner” means one of a married or unmarried couple;

“unmarried couple” means a man and a woman who are not married to each other but are living together as husband and wife otherwise than in prescribed circumstances; and

“week” means a period of 7 days beginning with midnight between Saturday and Sunday.

(2) Unless the context otherwise requires, any reference in these Regulations to—

- (a) a numbered regulation, Part or Schedule is a reference to the regulation, Part or Schedule bearing that number in these Regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation having that number;
- (b) a benefit includes any benefit under the Social Security Act 1975⁽⁴⁾, child benefit under Part I of the Child Benefit Act 1975⁽⁵⁾, income support and family credit under the Social Security Act 1986 and any social fund payments such as are mentioned in section 32(2)(a) of that Act.

(3) For the purposes of the provisions of these Regulations relating to the making of claims every increase of benefit under the Social Security Act 1975 shall be treated as a separate benefit and so shall an increase in the weekly rate of benefit under regulation 2(2) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976⁽⁶⁾.

(4) 1975 c. 14; amendments altering the range of benefits available under this Act were made by the Social Security Pensions Act 1975 (c. 60), sections 15, 16, 22 and 66(2), the Social Security and Housing Benefits Act 1982 (c. 24), s.39, the Health and Social Security Act 1984 (c. 48), sections 11 to 13 and Schedule 5 and the Social Security Act 1986 (c. 50), sections 36 to 42, Schedule 3 and Schedule 4, paragraph 13.

(5) 1975 c. 61.

(6) S.I. 1976/1267; relevant amending instruments are S.I. 1980/110, 1986/1172.

PART II

CLAIMS

Claims not required for entitlement to benefit in certain cases

3. It shall not be a condition of entitlement to benefit that a claim be made for it in the following cases:—

- (a) in the case of a Category C retirement pension where the beneficiary is in receipt of—
 - (i) another retirement pension under the Social Security Act 1975; or
 - (ii) widow's benefit under Chapter 1 of Part II of that Act; or
 - (iii) benefit by virtue of section 39(4) of that Act corresponding to a widow's pension or a widowed mother's allowance;
- (b) in the case of a Category D retirement pension where the beneficiary—
 - (i) was ordinarily resident in Great Britain on the day on which he attained 80 years of age; and
 - (ii) is in receipt of another retirement pension under the Social Security Act 1975;
- (c) age addition in any case;
- (d) in the case of a Category A or B retirement pension—
 - (i) where the beneficiary is a woman over the age of 65 and entitled to a widowed mother's allowance, on her ceasing to be so entitled; or
 - (ii) where the beneficiary is a woman under the age of 65 and in receipt of widow's pension, on her attaining that age.

Making a claim for benefit

4.—(1) Every claim for benefit shall be made in writing on a form approved by the Secretary of State, or in such other manner, being in writing, as the Secretary of State may accept as sufficient in the circumstances of any particular case.

(2) In the case of a claim for family credit, where a married or unmarried couple is included in the family, the claim shall be made by the woman, unless the Secretary of State is satisfied that it would be reasonable to accept a claim by the man.

(3) In the case of a married or unmarried couple, a claim for income support shall be made by whichever partner they agree should so claim or, in default of agreement, by such one of them as the Secretary of State shall in his discretion determine.

(4) Where one of a married or unmarried couple is entitled to income support under an award and, with his agreement, his partner claims income support that entitlement shall terminate on the day before that claim is made or treated as made.

(5) Forms of claim shall be supplied without charge by such persons as the Secretary of State may appoint or authorise for that purpose.

(6) Every claim shall be delivered or sent to an appropriate office, which, in the case of unemployment benefit, shall be such office, if any, as the Secretary of State may specify.

(7) If a claim is defective at the date when it is received or has been made in writing but not on the form approved for the time being, the Secretary of State may refer the claim to the person making it or, as the case may be, supply him with the approved form, and if the form is received properly completed within one month, or such longer period as the Secretary of State may consider

reasonable, from the date on which it is so referred or supplied, the Secretary of State shall treat the claim as if it has been duly made in the first instance.

(8) A claim which is made on the form approved for the time being is, for the purposes of paragraph (7), properly completed if completed in accordance with the instructions on the form and defective if not so completed.

Amendment and withdrawal of claim

5.—(1) A person who has made a claim may amend it at any time by notice in writing received in an appropriate office before a determination has been made on the claim, and any claim so amended may be treated as if it had been so amended in the first instance.

(2) A person who has made a claim may withdraw it at any time before a determination has been made on it, by notice to an appropriate office, and any such notice of withdrawal shall have effect when it is received.

Date of claim

6.—(1) Subject to paragraph (2) the date on which a claim is made shall be—

- (a) in the case of a claim which meets the requirements of regulation 4(1), the date on which it is received in an appropriate office;
- (b) in the case of a claim which does not meet the requirements of regulation 4(1) but which is treated, under regulation 4(7) as having been duly made, the date on which the claim was received in an appropriate office in the first instance.

(2) In the case of a claim for family credit—

- (a) subject to the following sub-paragraphs, where, under paragraph (1), the date on which a claim is made is a day other than the first day of the benefit week for family credit (being a period of 7 days beginning with midnight between Monday and Tuesday) that claim shall be treated as made on the first day of the next following benefit week;
- (b) a claim made in accordance with paragraph 7(a) of Schedule 4 for a period following the expiration of an existing award shall be treated as made on the day after such expiration; and
- (c) where the time for claiming is extended under regulation 19 the claim shall be treated as made on the first day of the period in respect of which the claim is, by reason of the operation of that regulation, timeously made; and
- (d) where the claim is made on or after the date when an up-rating order is made under section 63(2) of the Social Security Act 1986, but before the date when that order comes into force, and—
 - (i) an award cannot be made on that claim as at the date it is made but could have been made if that order were then in force; and
 - (ii) the period beginning with the date of claim and ending immediately before the date when the order came into force does not exceed 28 days,

the claim shall be treated as made on the date the order comes into force.

Evidence and information

7.—(1) Every person who makes a claim for benefit shall furnish such certificates, documents, information and evidence in connection with the claim, or any question arising out of it, as may be required by the Secretary of State and shall do so within one month of being required to do so or such longer period as the Secretary of State may consider reasonable.

(2) Where a benefit may be claimed by either of two partners or where entitlement to or the amount of any benefit is or may be affected by the circumstances of a partner, the Secretary of State may require the partner other than the claimant to certify in writing whether he agrees to the claimant making the claim or, as the case may be, that he confirms the information given about his circumstances.

(3) In the case of a claim for family credit, the employer of the claimant or, as the case may be, of the partner shall furnish such certificates, documents, information and evidence in connection with the claim or any question arising out of it as may be required by the Secretary of State.

Attendance in person

8.—(1) Subject to any directions given by the Secretary of State in any particular case, a person who is claiming unemployment benefit or who is claiming income support and is required by section 20(3)(d)(i) of the Social Security Act 1986 to be available for employment, shall attend in person at such unemployment benefit office as the Secretary of State may direct.

(2) Every person who makes a claim for benefit shall attend at such office or place and on such days and at such times as the Secretary of State may direct, for the purpose of furnishing certificates, documents, information and evidence under regulation 7, if reasonably so required by the Secretary of State.

Interchange with claims for other benefits

9.—(1) Where it appears that a person who has made a claim for benefit specified in column (1) of Part I of Schedule 1 may be entitled to the benefit specified opposite to it in column (2) of that Part, any such claim may be treated by the Secretary of State as a claim alternatively, or in addition, to the benefit specified opposite to it in that column.

(2) Where it appears that a person who has claimed any benefit specified in Part II of Schedule 1 in respect of a child may be entitled to child benefit in respect of the same child, the Secretary of State may treat the claim alternatively, or in addition, for the benefit in question as a claim by that person for child benefit.

(3) Where it appears that a person who has claimed child benefit in respect of a child may be entitled to any benefit specified in Part II of Schedule 1 (except an increase of child benefit) in respect of the same child, the Secretary of State may treat the claim for child benefit as a claim alternatively, or in addition, by that person for the benefit in question specified in that Part.

(4) Where it appears that a person who has made a claim for benefit other than child benefit is not entitled to it, but that some other person may be entitled to an increase of benefit in respect of him, the Secretary of State may treat the claim as if it were a claim by such other person for an increase of benefit in respect of the claimant.

(5) Where it appears that a person who has made a claim for an increase of benefit other than child benefit in respect of a child or adult dependant is not entitled to it but that some other person may be entitled to such an increase of benefit in respect of that child or adult dependant, the Secretary of State may treat the claim as if it were a claim by that other person for such an increase.

(6) Where it appears that a person who has made a claim for a guardian's allowance in respect of any child is not entitled to it, but that the claimant, or the wife or husband of the claimant, may be entitled to an increase of benefit for that child, the Secretary of State may treat the claim as if it were a claim by the claimant or the wife or husband of the claimant for an increase of benefit for that child.

Claim for sickness benefit etc. where no entitlement to statutory sick pay or statutory maternity pay

10.—(1) Paragraph (2) applies to a claim for sickness benefit, invalidity benefit or severe disablement allowance for a period of incapacity for work of which the claimant gave his employer a notice of incapacity under regulation 7 of the Statutory Sick Pay (General) Regulations 1982⁽⁷⁾, and for which he has been informed in writing by his employer that there is no entitlement to statutory sick pay.

(2) A claim to which this paragraph applies shall be treated as made on the date accepted by the claimant's employer as the first day of incapacity, provided that he makes the claim—

- (a) within the appropriate time specified in paragraph 2 of Schedule 4 beginning with the day on which he is informed in writing that he was not entitled to statutory sick pay; or
- (b) on a date after the expiry of that time if he proves that throughout the period from the expiry until that date he had good cause for not making it earlier.

(3) Paragraph (4) applies to a claim for maternity allowance for a pregnancy or confinement by reason of which the claimant gave her employer notice of absence from work under section 46(4) of the Social Security Act 1986 and regulation 23 of the Statutory Maternity Pay (General) Regulations 1986⁽⁸⁾ and in respect of which she has been informed in writing by her employer that there is no entitlement to statutory maternity pay.

(4) A claim to which this paragraph applies shall be treated as made on the date when the claimant gave her employer notice of absence from work or at the beginning of the 14th week before the expected week of confinement, whichever is later, provided that she makes the claim—

- (a) within one month of being informed in writing that she was not entitled to statutory maternity pay; or
- (b) on a date after the expiry of that month if she proves that throughout the period from the expiry until that date she had good cause for not making it earlier.

Special provisions where it is certified that a woman is expected to be confined or where she has been confined

11.—(1) Where in a certificate issued or having effect as issued under the Social Security (Medical Evidence) Regulations 1976⁽⁹⁾ it has been certified that it is to be expected that a woman will be confined, and she makes a claim for maternity allowance in expectation of that confinement any such claim may, unless the Secretary of State otherwise directs, be treated as a claim for sickness or invalidity benefit or severe disablement allowance made in respect of any days in the period beginning with either—

- (a) the beginning of the 6th week before the expected week of confinement; or
- (b) the actual date of confinement,

whichever is the earlier, and ending in either case on the 14th day after the actual date of confinement.

(2) Where, in a certificate issued under the Social Security (Medical Evidence) Regulations 1976 it has been certified that a woman has been confined and she claims maternity allowance within one month of that date, her claim may be treated in the alternative or in addition as a claim for sickness or invalidity benefit or severe disablement allowance for the period beginning with the date of her confinement and ending 14 days after that date.

⁽⁷⁾ S.I. 1982/894; the relevant amending instruments are S.I. 1984/385 and 1987/372.

⁽⁸⁾ S.I. 1986/1960.

⁽⁹⁾ S.I. 1976/615; the relevant amending instruments are S.I.s 1982/699, 1984/1303 and 1987/409.

Self-certified claims for first 7 days of a spell of incapacity for work

12.—(1) Where a self-certificate in respect of a claimant is submitted in support of a claim for sickness or invalidity benefit or severe disablement allowance, that claim shall be treated as if made for days, whether or not after the date of the claim, to which the self-certificate relates, not being days later than the first 7 days of a spell of incapacity that exceeds that length.

(2) Where a claim to which paragraph (1) applies includes one or more days subsequent to the date of claim, an award of benefit made in respect of them shall be subject to the condition that the claimant satisfies the requirements for entitlement throughout those days and if those requirements are found not to have been satisfied on any of those days the award shall be reviewed.

(3) For the purposes of this regulation—

“self-certificate” has the meaning ascribed to it by regulation 5 of the Social Security (Medical Evidence) Regulations 1976 (claimant’s declaration of incapacity as evidence for determining his right to benefit);

a “spell of incapacity” means a continuous period of incapacity for work (not excluding bank or other holidays) which is immediately preceded by a day on which the claimant either worked or was not incapable of work.

Advance claims and awards

13.—(1) Where, although a person does not satisfy the requirements for entitlement to benefit on the date on which a claim is made, the adjudicating authority is of the opinion that unless there is a change of circumstances he will satisfy those requirements for a period beginning on a day (“the relevant day”) not more than 3 months after the date on which the claim is made, then that authority may—

- (a) treat the claim as if made for a period beginning with the relevant day; and
- (b) award benefit accordingly, subject to the condition that the person satisfies the requirements for entitlement when benefit becomes payable under the award.

(2) An award under paragraph (1)(b) shall be reviewed by the adjudicating authority if the requirements for entitlement are found not to have been satisfied on the relevant day.

(3) This regulation does not apply to any claim for maternity allowance, attendance allowance, mobility allowance, retirement pension or increase, family credit, or any claim within regulation 11(1)(a) or (b).

Advance claim for and award of maternity allowance

14.—(1) Subject to the following provisions of this regulation, a claim for maternity allowance in expectation of confinement, or for an increase in such an allowance in respect of an adult dependant, and an award on such a claim, may be made not earlier than 14 weeks before the beginning of the expected week of confinement.

(2) A claim for an increase of maternity allowance in respect of an adult dependant may not be made in advance unless, on the date when made, the circumstances relating to the adult dependant concerned are such as would qualify the claimant for such an increase if they occurred in a period for which she was entitled to a maternity allowance.

Advance notice of retirement and claim for and award of pension

15.—(1) A claim for a retirement pension of any category, and for any increase in any such pension, and an award on such a claim, may be made at any time not more than 4 months before the date on which the claimant will, subject to the fulfilment of the necessary conditions, become entitled to such a pension.

(2) A notice for the purpose of section 27(4) of the Social Security Act 1975 (retirement from regular employment) shall be given to the Secretary of State in writing and shall specify a date, being a date not earlier than the date on which the person giving the notice attains pensionable age and not later than the expiration of the period of 4 months after the date on which the notice is given, as the date of that person's retirement.

(3) Where the person giving notice of retirement specifies a date earlier than the date on which he attains pensionable age, the notice shall be treated as if the latter date had been specified.

(4) For the purposes of that section 27(4) the prescribed period shall be the period of 12 months.

(5) Where a person who gives notice of retirement in accordance with paragraph (2) above is, or would but for the fact of his retirement, be in receipt of sickness, invalidity or unemployment benefit for a period which includes the date specified in the notice as the date of his retirement then, if the date so specified is not the appropriate day of the week for payment of retirement pension in his case, the notice shall be treated as if it specified instead the date of the next following such pay day.

(6) Where the spouse of such a person as is mentioned in paragraph (5) above also gives notice of retirement and specifies the same date of retirement as that person the provisions of that paragraph shall apply also to the notice given by the spouse.

(7) For the purposes of facilitating the determination of a subsequent claim for a Category A, B or C retirement pension, a person may at any time not more than 4 months before the date on which he will attain pensionable age, and notwithstanding that he does not intend to retire from regular employment at that date, submit particulars in writing to the Secretary of State in a form approved by him for that purpose with a view to the determination (in advance of the claim) of any question under the Act relating to that person's title to such a retirement pension other than the question of retirement, and subject to the necessary modifications, the provisions of these regulations shall apply to any such particulars.

Date of entitlement under an award for the purpose of payability of benefit and effective date of change of rate

16.—(1) For the purpose only of determining the day from which benefit is to become payable, where a benefit other than one of those specified in paragraph (4) is awarded for a period of a week, or weeks, and the earliest date on which entitlement would otherwise commence is not the first day of a benefit week, entitlement shall begin on the first day of the benefit week next following.

(2) Where there is a change in the rate of any benefit to which paragraph (1) applies the change, if it would otherwise take effect on a day which is not the appropriate pay day for that benefit, shall take effect from the appropriate pay day next following.

(3) For the purposes of this regulation the first day of the benefit week in the case of child benefit is Monday and in any other case except family credit is the day of the week on which the benefit is payable in accordance with regulation 22 (long term benefits).

(4) The benefits specified for exclusion from the scope of paragraph (1) are unemployment benefit, sickness benefit, invalidity benefit, maternity allowance, attendance allowance, severe disablement allowance, income support and family credit and any increase of those benefits.

Duration of awards

17.—(1) Subject to the provisions of this regulation and of section 20(6) of the Social Security Act 1986 (family credit) a claim for benefit shall be treated as made for an indefinite period and any award of benefit on that claim shall be made for an indefinite period.

(2) In the case of a first claim for unemployment benefit in any spell of unemployment none shall be awarded for any period after the date of that claim, but in the case of any subsequent claim made

in the same spell of unemployment the adjudicating authority may treat the claim as having been made, and may award benefit, for a period after the date of claim of—

- (a) up to 7 days; and
- (b) whether or not an award has already been made on that claim, where the Secretary of State has certified that either—
 - (i) there are, will be or are likely to be circumstances making impracticable or unduly difficult the normal operation of the provisions governing, or the practice relating to, the claiming, awarding or payment of unemployment benefit; or
 - (ii) he is of the opinion that, as regards any case or class of cases in which the claimant's employment as an employed earner has not been terminated, the awarding and payment of unemployment benefit can be adequately controlled without the application of the usual provisions of these regulations—

up to 26 weeks or the period for which the Secretary of State's certificate is in force (whichever is the shorter), and in this paragraph—

- (i) “spell of unemployment” means any period of one or more days on which a person is unemployed and any two or more such periods, not separated by a period of more than 3 consecutive days which in relation to that person are not days of unemployment, shall be treated as one spell of unemployment; and
 - (ii) in computing any period of time Sundays shall not be disregarded; and
- (c) where a claim has been treated as having been made and an award has been made under sub-paragraph (b) for less than the maximum period permitted by that sub-paragraph the claim may be treated as having been made for further periods and further awards may be made up to that maximum.

(3) If, in any case outside paragraph (2), it would be inappropriate to treat a claim as made and to make an award for an indefinite period (for example where a relevant change of circumstances is reasonably to be expected in the near future) the claim shall be treated as made and the award shall be for a definite period which is appropriate in the circumstances.

(4) In any case where benefit is awarded in respect of days subsequent to the date of claim the award shall be subject to the condition that the claimant satisfies the requirements for entitlement; and where those requirements are not satisfied the award shall be reviewed.

(5) The provisions of Schedule 2 shall have effect in relation to claims for unemployment benefit made during periods connected with public holidays.

Duration of disallowance

18.—(1) Where a claim for a benefit which is specified in column (1) of Schedule 3 is disallowed on the grounds specified in column (2) of that Schedule, any continuation claim for the benefit shall be treated as disallowed until the grounds for the original disallowance have ceased to exist.

(2) For the purposes of paragraph (1) a “continuation claim” for sickness benefit, invalidity benefit or severe disablement allowance has the same meaning as in paragraph 2(c) of Schedule 4 and a “continuation claim” for unemployment benefit means a claim made in respect of a day subsequent to the first day of the period to which the earlier claim relates.

(3) Where a person's claim for unemployment benefit has been disallowed on any grounds other than failure to satisfy contribution conditions and in the decision disallowing that claim it is stated that the decision is to be treated as a disallowance of any further claim by that person for unemployment benefit for specified days until either a period specified in the decision has expired or the grounds of the original disallowance have ceased to exist, the decision shall be so treated.

Time for claiming benefit

19.—(1) Subject to the provisions of Schedule 5 the prescribed time for claiming any benefit specified in column (1) of Schedule 4 shall be the appropriate time specified opposite that benefit in column (2) of that Schedule.

(2) Where the claimant proves that there was good cause, throughout the period from the expiry of the prescribed time for making the claim, for the failure to claim a benefit specified in column (1) of Schedule 4 before the date on which the claim was made the prescribed time shall, subject to section 165A of the Social Security Act 1975 (12 months limit on entitlement before the date of claim) and paragraphs (4) and (5), be extended to the date on which the claim is made.

(3) Where a claim is made for any benefit specified in column (1) of Schedule 4 and the Secretary of State certifies that to do so would be consistent with the proper administration of the Social Security Acts, the prescribed time shall be extended to one month.

(4) The prescribed time for claiming income support, family credit or a social fund payment for maternity or funeral expenses shall not be extended under paragraph (2) so as to give entitlement to benefit in respect of any period or, as the case may be, any birth, adoption or funeral occurring, more than 12 months before the date of claim.

(5) Where a claimant for a social fund payment for maternity expenses in respect of an adoption makes a claim on a date between 3 and 12 months from the date of the adoption order and proves that there was good cause, throughout the period from the expiry of the 3 months for the failure to make the claim before it was made, the claim shall be treated as if it had been made immediately before the expiry of the 3 months.

(6) The prescribed time for claiming benefits not specified in column (1) of Schedule 4 shall be—

- (a) six months in the case of guardian's allowance, child benefit and any increase in any benefit (other than income support) in respect of a child or adult dependant;
- (b) twelve months in the case of retirement pension of any category except the Category B retirement pension to which a woman is entitled by virtue of section 29(5) of the Social Security Act 1975, graduated retirement benefit⁽¹⁰⁾, widow's benefit and any benefit under section 39(4) of that Act corresponding to a widow's pension or a widowed mother's allowance, maternity allowance or invalid care allowance.

(7) The periods of six and twelve months prescribed by paragraph (6) are calculated from any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to the benefit concerned.

PART III**PAYMENTS****Time and manner of payment: general provision**

20. Subject to the provisions of regulations 21 to 27, benefit shall be paid in accordance with an award as soon as is reasonably practicable after the award has been made, by means of an instrument of payment or by such other means as appears to the Secretary of State to be appropriate in the circumstances of any particular case.

⁽¹⁰⁾ Graduated Retirement Benefit is payable under section 36 of the National Insurance Act 1965 (c. 51). Section 36 was repealed by the Social Security Act 1973 (c. 38) but is continued in force by regulation 3 of the Social Security (Graduated Retirement Benefit) (No.2) Regulations 1978 (S.I. 1978/393) in the modified form set out in the Schedule to those Regulations.

Direct credit transfer

21.—(1) Subject to the provisions of this regulation, any benefit may, on the application of the person claiming, or entitled to it, and with the consent of the Secretary of State, be paid by way of automated or other direct credit transfer into a bank or other account—

- (a) in the name of the person entitled to benefit, or his spouse, or a person acting on his behalf, or
- (b) in the joint names of the person entitled to benefit and his spouse, or the person entitled to benefit and a person acting on his behalf.

(2) An application for the benefit to be paid in accordance with paragraph (1)—

- (a) shall be in writing on a form approved for the purpose by the Secretary of State or in such other manner, being in writing, as he may accept as sufficient in the circumstances, and
- (b) shall contain a statement or be accompanied by a written statement made by the applicant declaring that he has read and understood the conditions applicable to payment of benefit in accordance with this regulation.

(3) Benefit shall be paid in accordance with paragraph (1) within seven days of the last day of each successive period of entitlement as may be provided in the application.

(4) In respect of benefit which is the subject of an arrangement for payment under this regulation, the Secretary of State may make a particular payment by credit transfer otherwise than is provided by paragraph (3) if it appears to him appropriate to do so for the purpose of—

- (a) paying any arrears of benefit, or
- (b) making a payment in respect of a terminal period of an award or for any similar purpose.

(5) The arrangement for benefit to be payable in accordance with this regulation may be terminated—

- (a) by the person entitled to benefit or a person acting on his behalf by notice in writing delivered or sent to an appropriate office or
- (b) by the Secretary of State if the arrangement seems to him to be no longer appropriate to the circumstances of the particular case.

Long term benefits

22.—(1) Subject to the provisions of regulation 21, long term benefits shall be paid at intervals of four weeks in the case of mobility allowance but otherwise weekly in advance, by means of benefit orders payable in each case to the beneficiary at such place as the Secretary of State, after enquiry of the beneficiary, may from time to time specify, unless in any particular case the Secretary of State arranges otherwise.

(2) Where the amount of long-term benefit payable is less than £2.00 a week the Secretary of State may direct that it shall be paid (whether in advance or in arrears) at such intervals as may be specified not exceeding 12 months.

(3) Schedule 6 specifies the days of the week on which the various long term benefits are payable.

Child benefit

23.—(1) Subject to the provisions of this regulation and of regulation 21 (direct credit transfer), child benefit shall be payable as follows:—

- (a) in a case where a person entitled to child benefit elects to receive payment weekly in accordance with the provisions of Schedule 8, child benefit shall be payable weekly from the first convenient date after the election has been made;

(b) in any other case child benefit shall be payable in the last week of each successive period of four weeks of the period of entitlement.

(2) Subject to paragraph (3) and regulation 21, child benefit payable weekly or four-weekly shall be payable on Mondays or Tuesdays (as the Secretary of State may in any case determine) by serial orders.

(3) In such cases as the Secretary of State may determine, child benefit shall be payable otherwise than—

- (a) by means of serial orders, or
- (b) on Mondays or Tuesdays, or
- (c) at weekly or four-weekly intervals,

and where child benefit is paid at four-weekly intervals in accordance with paragraph (1)(b) the Secretary of State shall arrange for it to be paid weekly if satisfied that payment at intervals of four weeks is causing hardship.

(4) The Secretary of State shall take steps to notify persons to whom child benefit is payable of the arrangements he has made for payment so far as those arrangements affect such persons.

Unemployment benefit, sickness or invalidity benefit, maternity allowance and severe disablement allowance

24.—(1) Subject to regulation 21 and paragraph (3), unemployment benefit shall be paid fortnightly in arrears and, sickness or invalidity benefit and severe disablement allowance shall be paid weekly in arrears unless, in any particular case, the Secretary of State arranges otherwise.

(2) Maternity allowance shall be paid on Friday in the week for which it is payable unless in any particular case the Secretary of State arranges otherwise.

(3) If the weekly amount of sickness or invalidity benefit is less than £1.00 it may be paid in arrears at intervals of 4 weeks.

Payment of attendance allowance and constant attendance allowance at a daily rate

25.—(1) Attendance allowance shall be paid in respect of any person, for any day falling within a period to which paragraph (2) applies, at the daily rate (which shall be equal to 1/7th of the weekly rate) and attendance allowance payable in pursuance of this regulation shall be paid weekly or as the Secretary of State may direct in any case.

(2) This paragraph applies to any period which—

- (a) begins on the day immediately following the last day of a period during which a person was living in hospital or other accommodation specified in regulation 3, 4, or 7(1) of the Social Security (Attendance Allowance) (No.2) Regulations 1975⁽¹¹⁾; and
- (b) ends—
 - (i) if the first day of the period was a day of payment, at midnight on the day preceding the 13th following day of payment, or
 - (ii) if that day was not a day of payment, at midnight on the day preceding the 14th following day of payment, or
 - (iii) if earlier, on the day immediately preceding the day on which regulation 3, 4, 5, 7(1) or 7(2) next applies to his case;

⁽¹¹⁾ S.I. 1975/598; amending instruments are S.I. 1977/342, 417, 1980/1136, 1983/1015, 1137, 1741.

if on the first day of the period it is expected that, before the expiry of the period of 13 weeks beginning with that day, he will return to hospital or other accommodation to which regulation 3, 4, 5 or 7 applies.

(3) An increase of disablement pension under section 61 of the Social Security Act 1975 where constant attendance is needed (“constant attendance allowance”) shall be paid at a daily rate of 1/7th of the weekly rate in any case where it becomes payable for a period of less than a week which is immediately preceded and immediately succeeded by periods during which the constant attendance allowance was not payable because regulation 21(1) of the Social Security (General Benefit) Regulations 1982⁽¹²⁾ applied.

Income support

26.—(1) Schedule 7 shall have effect for determining the manner in and time at which income support is to be paid, the day when any change of circumstances affecting entitlement is to have effect and the day when entitlement to income support is to begin.

(2) Where income support paid by means of a book of serial orders is increased on review by an amount which, with any previous such increase, is less than 50 pence per week, the Secretary of State may defer payment of that increase until not later than either—

- (a) the termination of entitlement; or
- (b) the expiration of the period of one week from the date specified for payment in the last order in that book of serial orders,

whichever is the earlier.

(3) Where income support paid by means of a book of serial orders is reduced on review by less than 50 pence per week, the reduction shall be disregarded for the period to which that book relates.

(4) Where the entitlement to income support is less than 10 pence or, in the case of a beneficiary to whom section 23(8) of the Social Security Act 1986 applies, £5, that amount shall not be payable unless the claimant is also entitled to payment of any other benefit with which income support is paid under arrangements made by the Secretary of State.

Family credit

27.—(1) Subject to regulation 21, family credit shall be payable in respect of any benefit week on the Tuesday next following the end of that week by means of a book of serial orders unless in any case the Secretary of State arranges otherwise.

(2) Where the entitlement to family credit is less than 50 pence a week that amount shall not be payable.

Fractional amounts of benefit

28. Where the amount of any benefit payable would, but for this regulation, include a fraction of a penny, that fraction shall be disregarded if it is less than a half penny and shall otherwise be treated as a penny.

Payment to a person under age 18

29. Where a person who is awarded benefit is under the age of 18, his signature on any instrument of payment shall be a sufficient discharge to the Secretary of State for any sum paid under such instrument.

(12) S.I. 1982/1408.

Payments on death

30.—(1) On the death of a person who has made a claim for benefit, the Secretary of State may appoint such person as he may think fit to proceed with the claim.

(2) Subject to paragraph (4), any sum payable by way of benefit which is payable under an award on a claim proceeded with under paragraph (1) may be paid or distributed by the Secretary of State to or amongst persons over the age of 16 claiming as personal representatives, legatees, next of kin, or creditors of the deceased (or, where the deceased was illegitimate, to or amongst other persons over the age of 16), and the provisions of regulation 38 (extinguishment of right) shall apply to any such payment or distribution; and

- (a) the receipt of any such person shall be a good discharge to the Secretary of State for any sum so paid; and
- (b) where the Secretary of State is satisfied that any such sum or part thereof is needed for the benefit of any person under the age of 16, he may obtain a good discharge therefor by paying the sum or part thereof to a person over that age who satisfies the Secretary of State that he will apply the sum so paid for the benefit of the person under the age of 16.

(3) Subject to paragraph (2), any sum payable by way of benefit to the deceased, payment of which he had not obtained at the date of his death, may, unless the right thereto was already extinguished at that date, be paid or distributed to or amongst such persons as are mentioned in paragraph (2), and regulation 38 shall apply to any such payment or distribution, except that, for the purpose of that regulation, the period of 12 months shall be calculated from the date on which the right to payment of any sum is treated as having arisen in relation to any such person and not from the date on which that right is treated as having arisen in relation to the deceased.

(4) Paragraphs (2) and (3) shall not apply in any case unless written application for the payment of any such sum is made to the Secretary of State within 12 months from the date of the deceased's death or within such longer period as the Secretary of State may allow in any particular case.

(5) Where the conditions specified in paragraph (6) are satisfied, a claim may be made on behalf of the deceased to any benefit other than income support or family credit or a social fund payment such as is mentioned in section 32(2)(a) of the Social Security Act 1986, to which he would have been entitled if he had claimed it in the prescribed manner and within the prescribed time.

(6) The following conditions are specified for the purposes of paragraph (5)—

- (a) within six months of the death an application must have been made in writing to the Secretary of State for a person, whom the Secretary of State thinks fit to be appointed to make the claim, to be so appointed;
- (b) a person must have been appointed by the Secretary of State to make the claim;
- (c) there must have been no longer period than six months between the appointment and the making of the claim.

(7) A claim made in accordance with paragraph (5) shall be treated, for the purposes of these regulations, as if made by the deceased on the date of his death.

(8) The Secretary of State may dispense with strict proof of the title of any person claiming in accordance with the provisions of this regulation.

(9) In paragraph (2) “next of kin” means—

- (a) in England and Wales, the persons who would take beneficially on an intestacy; and
- (b) in Scotland, the persons entitled to the moveable estate of the deceased on intestacy.

Time and manner of payments of industrial injuries gratuities

31.—(1) This regulation applies to any gratuity payable under Chapter IV or V of Part II of the Social Security Act 1975.

(2) Subject to the following provisions of this regulation, every gratuity shall be payable in one sum.

(3) A gratuity may be payable by instalments of such amounts and at such times as appear reasonable in the circumstances of the case to the adjudicating authority awarding the gratuity if—

- (a) the beneficiary to whom the gratuity has been awarded is, at the date of the award, under the age of 18 years, or
- (b) in any other case, the amount of the gratuity so awarded (not being a gratuity payable to the widow of a deceased person on her remarriage) exceeds £52 and the beneficiary requests that payments should be made by instalments.

(4) An appeal shall not be brought against any decision that a gratuity should be payable by instalments or as to the amounts of any such instalments or the time of payment but any such decision may be varied by the adjudicating authority by whom the award of that gratuity is varied.

(5) Subject to the provisions of regulation 37 (suspension), a gratuity shall—

- (a) if it is payable by equal weekly instalments, be paid in accordance with the provisions of regulation 22 insofar as they are applicable; or
- (b) in any case, be paid by such means as may appear to the Secretary of State to be appropriate in the circumstances.

Information to be given when obtaining payment of benefit

32.—(1) Every beneficiary and every person by whom or on whose behalf sums payable by way of benefit are receivable shall furnish in such manner and at such times as the Secretary of State may determine such certificates and other documents and such information or facts affecting the right to benefit or to its receipt as the Secretary of State may require (either as a condition on which any sum or sums shall be receivable or otherwise), and in particular shall notify the Secretary of State of any change of circumstances which he might reasonably be expected to know might affect the right to benefit, or to its receipt, as soon as reasonably practicable after its occurrence, by giving notice in writing of any such change to the appropriate office.

(2) Where any sum is receivable on account of an increase of benefit in respect of an adult dependant, the Secretary of State may require the beneficiary to furnish a declaration signed by such dependant confirming the particulars respecting him, which have been given by the claimant.

PART IV

THIRD PARTIES

Persons unable to act

33.—(1) Where—

- (a) a person is, or is alleged to be, entitled to benefit, whether or not a claim for benefit has been made by him or on his behalf; and
- (b) that person is unable for the time being to act; and either
- (c) no receiver has been appointed by the Court of Protection with power to claim, or as the case may be, receive benefit on his behalf; or

(d) in Scotland, his estate is not being administered by any tutor, curator or other guardian acting or appointed in terms of law,

the Secretary of State may, upon written application made to him by a person who, if a natural person, is over the age of 18, appoint that person to exercise, on behalf of the person who is unable to act, any right to which that person may be entitled and to receive and deal on his behalf with any sums payable to him.

(2) Where the Secretary of State has made an appointment under paragraph (1)–

- (a) he may at any time revoke it;
- (b) the person appointed may resign his office after having given one month's notice in writing to the Secretary of State of his intention to do so;
- (c) any such appointment shall terminate when the Secretary of State is notified that a receiver or other person to whom paragraph (1)(c) or (d) applies has been appointed.

(3) Anything required by these regulations to be done by or to any person who is for the time being unable to act may be done by or to the receiver, tutor, curator or other guardian, if any, or by or to the person appointed under this regulation or regulation 43 (mobility allowance for children) and the receipt of any person so appointed shall be a good discharge to the Secretary of State for any sum paid.

Payment to another person on the beneficiary's behalf

34. The Secretary of State may direct that benefit shall be paid, wholly or in part, to another person on the beneficiary's behalf if such a direction as to payment appears to the Secretary of State to be necessary for protecting the interests of the beneficiary, or any child or dependant in respect of whom benefit is payable.

Deductions from benefit and direct payment to third parties

35. Deductions may be made from benefit and direct payments may be made to third parties on behalf of a beneficiary in accordance with the provisions of Schedule 9.

Payment to a partner as alternative payee

36. Where one of a married or unmarried couple residing together is entitled to child benefit or family credit the Secretary of State may make arrangements whereby that benefit, as well as being payable to the person entitled to it, may, in the alternative, be paid to that person's partner on behalf of the person entitled.

PART V

SUSPENSION AND EXTINGUISHMENT

Suspension

37.—(1) Subject to paragraph (3), where it appears to the Secretary of State that a question has arisen in relation to a person's entitlement to benefit or to payment of that benefit, he may direct that payment of that benefit shall be suspended, wholly or in part, pending the determination of that question on review, appeal or reference.

(2) Where it appears to the Secretary of State that a question has arisen whether any amount paid or payable to a person by way of, or in connection with a claim for, benefit is recoverable under section 27 or 53 of the Social Security Act 1986, or regulations made under either section, he may

direct that any payment of arrears of benefit to that person shall be suspended, in whole or in part, pending determination of that question.

(3) The Secretary of State may direct that payment of benefit under a decision of a social security appeal tribunal be suspended during any period when consideration is being given whether an appeal should be made to a Commissioner.

(4) A suspension of benefit under paragraph (3) shall cease at the expiry of the period of one month from the date on which notice of the tribunal's decision was given to the adjudication officer unless within that period the claimant is given notice in writing that an application for leave to appeal to a Commissioner has been made; but if notice of such an application is given the suspension may continue until the application and any consequent appeal have been determined.

Extinguishment of right to payment of sums by way of benefit where payment is not obtained within the prescribed period

38.—(1) The right to payment of any sum by way of benefit shall be extinguished where payment of that sum is not obtained within the period of 12 months from the date on which the right is to be treated as having arisen; and for the purposes of this regulation the right shall be treated as having arisen—

- (a) in relation to any such sum contained in an instrument of payment which has been given or sent to the person to whom it is payable, or to a place approved by the Secretary of State for collection by him (whether or not received or collected as the case may be)—
 - (i) on the date of the said instrument of payment, or
 - (ii) if a further instrument of payment has been so given or sent as a replacement, on the date of the last such instrument of payment;
- (b) in relation to any such sum to which sub-paragraph (a) does not apply, where notice is given (whether orally or in writing) or is sent that the sum contained in the notice is available for collection on the date of the notice or, if more than one such notice is given or sent, the date of the first such notice;
- (c) in relation to any such sum to which neither (a) nor (b) applies, on such date as the Secretary of State determines.

(2) The giving or sending of an instrument of payment under paragraph 1(a), or of a notice under paragraph 1(b), shall be effective for the purposes of that paragraph, even where the sum contained in that instrument, or notice, is more or less than the sum which the person concerned has the right to receive.

(3) For the purposes of paragraph (1) the date of an instrument of payment is the date of issue of that instrument or, if the instrument specifies a date which is the earliest date on which payment can be obtained on the instrument and which is later than the date of issue, that date.

(4) This regulation shall apply to a person authorised or appointed to act on behalf of a beneficiary as it applies to a beneficiary.

(5) This regulation shall not apply to the right to a single payment of any industrial injuries gratuity or in satisfaction of a person's right to graduated retirement benefit.

PART VI

MOBILITY ALLOWANCE

Claim and award for period beginning after the date on which the claim is received

39.—(1) A claim for mobility allowance may be made, or treated as made, for a period beginning on such date later than the date on which the claim is received, being a date not more than 3 months after the date on which it is so received as the Secretary of State may determine:

Provided that—

- (a) in the case of a claim in respect of a child who will attain the age of 5 within the 3 months period, no date earlier than the date of his fifth birthday shall be treated as the date the claim is made; and
 - (b) in the case of a claim for the renewal of an existing award of an allowance, the first day after the ending of the period of the existing award shall be treated as the date the claim is made.
- (2) Where, in accordance with the foregoing provisions of this regulation, a claim is made, or treated as made, for a period beginning after the date on which it is received—
- (a) the entitlement to an allowance of the person in respect of whom such claim is made shall be determined having regard to the physical disablement to which that person may be expected to be subject at the beginning of the period for which the claim is, or is treated as being made; and
 - (b) if it appears that the conditions for entitlement to an allowance will be satisfied from the beginning of such period, an allowance may be awarded, payable from that date, subject to the condition that, when the allowance becomes payable, the person in respect of whom such claim is made satisfies the requirements for entitlement to an allowance for which provision is made in section 37A of the Social Security Act 1975(13) or in these regulations; and if at any time during the period for which such an award is made, any of those requirements are found not to have been satisfied, the award shall be reviewed.

Claim received within 6 months after the end of a period for which allowance awarded

40. Where mobility allowance has been awarded to any person for a period ending before the date on which he attains the age of 75 and no further claim for an allowance made by, or in respect of, that person has been received by the Secretary of State before the end of that period, any further claim so made, which is received or by virtue of regulation 4(1) of the Mobility Allowance Regulations 1975(14) is treated as received, by the Secretary of State on a date not more than 6 months after the end of that period, shall be treated as a claim for a period beginning immediately after the end of that period.

Obligations of persons in respect of whom allowances are claimed or awarded and disqualification for failure to comply

41.—(1) Subject to the following provisions of this regulation, every person, in respect of whom a claim for allowance is made or to whom mobility allowance has been awarded, shall comply with every notice given to him by the Secretary of State which requires him either—

(13) 1975 c. 14; section 37A was added by the Social Security Pensions Act 1975 (c. 60), s.22(1).

(14) S.I. 1975/1573; the relevant amending instrument is S.I. 1986/1541.

- (a) to submit himself to a medical examination by a medical authority for the purpose of determining any medical question as defined in regulation 53 of the Social Security (Adjudication) Regulations 1986⁽¹⁵⁾; or
- (b) to submit himself to such medical or other treatment as is available to him and is considered appropriate in his case by any medical authority to whose examination he has submitted himself in accordance with the foregoing provisions of this regulation, being treatment that may be expected to improve his condition so as to enable him to walk.

(2) Every notice given for the purpose of this regulation requiring a person to submit himself to medical examination shall be given in writing and shall specify the time and place of examination and shall not require a person to submit himself to examination on a date earlier than the third day after the day on which the notice is sent.

(3) Every person who is required to submit himself to a medical examination under this regulation shall attend at every such place and at every such time as may be required.

(4) Every person in respect of whom a claim for mobility allowance is made or to whom an allowance is awarded who, without good cause, fails to comply with any requirement of this regulation shall, if the adjudicating authority so decides, be disqualified for receiving any allowance in respect of the period of such failure:

Provided that—

- (a) nothing in this regulation shall authorise the disqualification of any person for receiving an allowance for a period exceeding 6 weeks on any disqualification; and
- (b) no person shall be disqualified for receiving any allowance for refusal to undergo a surgical operation not being one of a minor character.

Cases where allowance not to be payable

42.—(1) Subject to the provisions of this regulation, an allowance shall not be payable to any person who would otherwise be entitled to it in respect of any period—

- (a) during which that person has the use of an invalid carriage or other vehicle provided by the Secretary of State under section 5(2) of and Schedule 2 to the National Health Service Act 1977⁽¹⁶⁾ or section 46 of the National Health Service (Scotland) Act 1978⁽¹⁷⁾ which is a vehicle propelled by petrol engine or by electric power supplied for use on the road and to be controlled by the occupant; or
- (b) in respect of which that person has received, or is receiving, any payment—
 - (i) by way of grant under the said section 5(2) and Schedule 2 or section 46 towards the costs of running a private car, or
 - (ii) of mobility supplement under the Naval, Military and Air Forces etc, (Disablement and Death) Service Pensions Order 1983⁽¹⁸⁾ or the Personal Injuries (Civilians) Scheme 1983⁽¹⁹⁾, or under the said Order by virtue of the War Pensions (Naval Auxiliary Personnel) Scheme 1964⁽²⁰⁾, the Pensions (Polish Forces) Scheme 1964⁽²¹⁾, the War Pensions (Mercantile Marine) Scheme 1964⁽²²⁾ or an Order of Her Majesty in relation to the Home Guard dated 21st December 1964⁽²³⁾ or 22nd

⁽¹⁵⁾ S.I. 1986/2218.

⁽¹⁶⁾ 1977 c. 49.

⁽¹⁷⁾ 1978 c. 29.

⁽¹⁸⁾ S.I. 1983/883, as amended by S.I. 1983/1116, 1521, 1986/592.

⁽¹⁹⁾ S.I. 1983/686, amended by S.I. 1983/1164, 1540, 1984/1289, 1986/628.

⁽²⁰⁾ S.I. 1964/1985.

⁽²¹⁾ S.I. 1964/2007, as extended by S.I. 1967/293, 1972/95, 1981/1876.

⁽²²⁾ S.I. 1964/2058.

⁽²³⁾ Cmnd 2563.

December 1964⁽²⁴⁾, or in relation to the Ulster Defence Regiment dated 4th January 1971⁽²⁵⁾

or any payment out of public funds which the Secretary of State is satisfied is analogous thereto.

(2) A person who has notified the Secretary of State that he no longer wishes to use such an invalid carriage or other vehicle as is referred to in paragraph (1)(a) and has signed an undertaking that he will not use it while it remains in his possession awaiting collection, shall be treated, for the purposes of this regulation, as not having the use of that invalid carriage or other vehicle.

(3) Where a person in respect of whom mobility allowance is claimed for any period has received any such payment as referred to in paragraph (1)(b) for a period which, in whole or in part, covers the period for which the allowance is claimed, such payment shall be treated as an aggregate of equal weekly amounts in respect of each week in the period for which it is made and, where in respect of any such week a person is treated as having a weekly amount so calculated which is less than the weekly rate of allowance specified in paragraph 3A of Part III of Schedule 4 to the Social Security Act 1975, any allowance to which that person may be entitled for that week shall be payable at a weekly rate reduced by the weekly amount so calculated.

(4) In a case where the Secretary of State has issued a certificate to the effect that he is satisfied—

(a) that the person in question either—

(i) has purchased or taken on hire or hire-purchase or

(ii) intends to purchase or take on hire or hire-purchase a private car or similar vehicle (“the car”) for a consideration which is more than nominal, on or about a date (not being earlier than 13th January 1982) specified in the certificate (“the said date”);

(b) that that person intends to retain possession of the car at least during, and to learn to drive it within, the period of 6 months or greater or lesser length of time as may be specified in the certificate (“the said period”) beginning on the said date; and

(c) that that person will use mobility allowance in whole or in part during the said period towards meeting the expense of acquiring the car,

paragraph (1)(a) shall not apply, and shall be treated as having never applied, during a period beginning on the said date and ending at the end of the said period or (if earlier) the date on which the Secretary of State cancels the certificate because that person has parted with possession of the car or for any other reason.

Children

43.—(1) In any case where a claim for an allowance for a child is received by the Secretary of State, he shall, in accordance with the following provisions of this regulation, appoint a person to exercise, on behalf of that child, any right to which he may be entitled under the Social Security Act 1975 in connection with an allowance and to receive and deal on his behalf with any sums payable by way of an allowance.

(2) Subject to the following provisions of this regulation, a person appointed by the Secretary of State under this regulation to act on behalf of the child shall—

(a) be a person with whom the child is living; and

(b) be over the age of 18; and

(c) be either the father or mother of the child, or, if the child is not living with either parent, be such other person as the Secretary of State may determine; and

⁽²⁴⁾ Cmnd 2564.

⁽²⁵⁾ Cmnd 4567.

- (d) have given such undertaking as may be required by the Secretary of State as to the use, for the child's benefit, of any allowance paid.

(3) For the purpose of paragraph (2)(a), a person with whom a child has been living shall, subject to paragraph (4) and to the power of the Secretary of State to determine in any case that the provisions of this paragraph should not apply, be treated as continuing to live with that child during any period—

- (a) during which that person and the child are separated but such separation has not lasted for a continuous period exceeding 8 weeks; or
- (b) during which the child is absent by reason only of the fact that he is receiving full-time education at a school; or
- (c) during which the child is absent and undergoing medical or other treatment as an in-patient in a hospital or similar institution; or
- (d) during such other period as the Secretary of State may in any particular case determine:

Provided that where the absence of the child under (b) has lasted for a continuous period of 26 weeks or the child is absent under (c), that person shall only be treated as continuing to live with that child if he satisfies the Secretary of State that he has incurred, or has undertaken to incur, expenditure for the benefit of the child of an amount not less than the allowance payable in respect of such period of absence.

(4) Where a child, in respect of whom an allowance is payable, is, by virtue of any provision of an Act of Parliament—

- (a) committed to, or received into the care of, a local authority; or
- (b) subject to a supervision requirement and residing in a residential establishment under arrangements made by a local authority in Scotland;

any appointment made under the foregoing provisions of this regulation shall terminate forthwith:

Provided that, when a child is committed to, or received into, care or is made subject to a supervision requirement for a period which is, and when it began was, not intended to last for more than 8 weeks the appointment shall not terminate by virtue of this paragraph until such period has lasted for 8 weeks.

(5) In any case where an appointment on behalf of any child in the care of, or subject to a supervision requirement under arrangements made by, a local authority is terminated in accordance with paragraph (4), the Secretary of State may, upon application made to him by that local authority or by an officer of such authority nominated for the purpose by that authority, appoint the local authority or nominated officer thereof or appoint such other person as he may, after consultation with the local authority, determine, to exercise on behalf of the child any right to which that child may be entitled under the Act in connection with the allowance and to receive and deal on his behalf with any sums payable to him by way of mobility allowance for any period during which he is in the care of, or, as the case may be, subject to a supervision requirement under arrangements made by, that authority.

(6) Where a child is undergoing medical or other treatment as an in-patient in a hospital or similar institution and there is no other person to whom mobility allowance may be payable by virtue of an appointment under this regulation, the Secretary of State may, upon application made to him by the district health authority or, as the case may be, social services authority, controlling the hospital or similar institution in which the child is an in-patient, or by an officer of that authority nominated for the purpose by the authority, appoint that authority or the nominated officer thereof or such other person as the Secretary of State may, after consultation with that authority, determine, to exercise on behalf of the child any right to which that child may be entitled in connection with the allowance and to receive and deal on his behalf with any sums payable to him by way of mobility allowance for any period during which he is an in-patient in a hospital or similar institution under the control of that authority.

(7) For the purposes of this regulation—

“district health authority” means, in relation to England and Wales a District Health Authority within the meaning of the National Health Service Act 1977⁽²⁶⁾ and, in relation to Scotland, a Health Board within the meaning of the National Health Services (Scotland) Act 1978⁽²⁷⁾;

“child’s father” and “child’s mother” include a person who is a child’s father or mother by adoption or would be such a relative if an illegitimate child had been born legitimate;

“hospital or similar institution” means any premises for the reception of and treatment of person suffering from any illness, including any mental disorder, or of persons suffering from physical disability, and any premises used for providing treatment during convalescence or for medical rehabilitation;

“local authority” means, in relation to England and Wales, a local authority as defined in the Local Government Act 1972⁽²⁸⁾ and, in relation to Scotland, a local authority as defined in the Local Government (Scotland) Act 1973⁽²⁹⁾;

“social services authority” means—

- (a) in relation to England and Wales, the social services committee established by a local authority under section 2 of the Local Authority Social Services Act 1970⁽³⁰⁾; and
- (b) in relation to Scotland, the social work committee established by a local authority under section 2 of the Social Work (Scotland) Act 1968⁽³¹⁾.

Payment of mobility allowance on behalf of a beneficiary

44.—(1) Where, under arrangements made or negotiated by Motability, an agreement has been entered into by or on behalf of a beneficiary in respect of whom mobility allowance is payable for the hire or hire-purchase of a vehicle, the Secretary of State may arrange that any mobility allowance payable to the beneficiary shall be paid in whole or in part on behalf of the beneficiary in settlement of liability for payments due under that agreement.

(2) Subject to regulations 45 and 46 an arrangement made by the Secretary of State under paragraph (1) shall terminate at the end of whichever is the relevant period specified in paragraph (3), in the case of hire, or paragraph (4), in the case of a hire-purchase agreement.

(3) In the case of hire the relevant period shall be:—

- (a) where the vehicle is returned to the owner at or before the expiration of the original term of hire, the period of the original term; or
- (b) where the vehicle is retained by or on behalf of the beneficiary with the owner’s consent after the expiration of the original term of hire, the period of the original term; or
- (c) where the vehicle is retained by or on behalf of the beneficiary otherwise than with the owner’s consent after the expiration of the original term of hire or its earlier termination, whichever is the longer of the following periods
 - (i) the period ending with the return of the vehicle to the owner; or
 - (ii) the period of the original term of hire.

(4) In the case of a hire-purchase agreement, the relevant period shall be:—

- (a) the period ending with the purchase of the vehicle; or

⁽²⁶⁾ 1977 c. 49; section 8(1A) was added by the Health Services Act 1980 (c. 53), Schedule 1, paragraph 28(a).

⁽²⁷⁾ 1978 c. 29.

⁽²⁸⁾ 1972 c. 70.

⁽²⁹⁾ 1973 c. 65.

⁽³⁰⁾ 1970 c. 42.

⁽³¹⁾ 1968 c. 49.

- (b) where the vehicle is returned to the owner or is repossessed by the owner under the terms of the agreement before the completion of the purchase, the original period of the agreement.
- (5) In this regulation “Motability” means the company, set up under that name as a charity and incorporated under the Companies Act 1985(32) Registered No. 1348959.

Power for the Secretary of State to terminate an arrangement

45. The Secretary of State may terminate an arrangement for the payment of mobility allowance on behalf of a beneficiary under regulation 44 on such date as he shall decide—

- (a) if requested to do so by the owner of the vehicle to which the arrangement relates, or
- (b) where it appears to him that the arrangement is causing undue hardship to the beneficiary and that it should be terminated before the end of any of the periods specified in regulation 44(3) or 44(4).

Restriction on duration of arrangements by the Secretary of State

46. The Secretary of State shall end an arrangement for the payment of mobility allowance on behalf of a beneficiary made under regulation 44, where he is satisfied that the vehicle to which the arrangement relates has been returned to the owner, and that the expenses of the owner arising out of the hire or hire-purchase agreement have been recovered following the return of the vehicle.

PART VII

MISCELLANEOUS

Instruments of payment

47. Instruments of payment and books of serial orders issued by the Secretary of State shall remain his property; and any person having such an instrument or book shall, on ceasing to be entitled to the benefit to which such instrument or book relates or when so required by the Secretary of State, deliver the instrument or book to the Secretary of State or to such other person as he may direct.

Revocations

48. The regulations specified in column (1) of Schedule 10 to these regulations are hereby revoked to the extent mentioned in column (2) of that Schedule, in exercise of the powers specified in column (3).

Signed by authority of the Secretary of State for Social Services.

20th November 1987

Nicholas Scott
Minister of State,
Department of Health and Social Security

SCHEDULE 1

Regulation 9(1)

PART I

benefit claimed and other benefit which may be
treated as if claimed in addition or in the alternative

Benefit Claimed (1)	Alternative benefit (2)
Sickness benefit	Invalidity benefit or severe disablement allowance.
Invalidity benefit	Sickness benefit or severe disablement allowance.
Unemployment benefit	Sickness benefit, invalidity benefit unemployment supplement, severe disablement allowance or invalid care allowance.
Severe disablement allowance	Sickness benefit or invalidity benefit.
An increase of unemployment benefit	An increase of sickness benefit, invalidity benefit, severe disablement allowance or of invalid care allowance.
Sickness benefit for a woman	Maternity allowance.
Invalidity benefit for a woman	Maternity allowance.
Severe disablement allowance for a woman	Maternity allowance.
Maternity allowance	Sickness benefit, invalidity benefit or severe disablement allowance.
A retirement pension of any category	Widow's benefit.
A retirement pension of any category	A retirement pension of any other category.
An increase of sickness benefit or invalidity pension	An increase of severe disablement allowance.
Attendance allowance	An increase of disablement pension where constant attendance is needed.
An increase of disablement pension where constant attendance is needed	Attendance allowance.
An increase of severe disablement allowance	An increase of sickness benefit or invalidity benefit.
In this Part of this Schedule—	
(a) references to an increase of any benefit (other than an increase of disablement pension where constant attendance is needed) are to an increase of that benefit in respect of a child or adult dependant;	
(b) “widow’s benefit” means widow’s benefit under Chapter I of Part II of the Social Security Act 1975 and benefit by virtue of section 39(4) of that Act corresponding to a widow’s pension or a widowed mother’s allowance.	

Benefit Claimed (1)	Alternative benefit (2)
Income support	Supplementary benefit, attendance allowance or an invalid care allowance.
In this Part of this Schedule—	
(a)	references to an increase of any benefit (other than an increase of disablement pension where constant attendance is needed) are to an increase of that benefit in respect of a child or adult dependant;
(b)	“widow’s benefit” means widow’s benefit under Chapter I of Part II of the Social Security Act 1975 and benefit by virtue of section 39(4) of that Act corresponding to a widow’s pension or a widowed mother’s allowance.

Regulation 9(2) and (3)

PART II

interchange of claims for child benefit with claims for other benefits

Increase in child benefit under regulation 2(2) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976⁽³³⁾

Guardian’s allowance

Maternity allowance claimed after confinement

Increase for child dependant by virtue of sections 41, 49 and 64 of the Social Security Act 1975, or regulations made under section 39(4) of that Act.

SCHEDULE 2

Regulation 17(5)

SPECIAL PROVISIONS RELATING TO CLAIMS FOR UNEMPLOYMENT BENEFIT DURING PERIODS CONNECTED WITH PUBLIC HOLIDAYS

1.—(1) In this Schedule:—

- (a) “public holiday” means, as the case may be, Christmas Day, Good Friday or a Bank Holiday under the Banking and Financial Dealings Act 1971⁽³⁴⁾ or in Scotland local holidays; and “Christmas and New Year holidays” and “Good Friday and Easter Monday” shall be construed accordingly and shall in each case be treated as one period;
- (b) “office closure” means a period during which an unemployment benefit office or associated office is closed in connection with a public holiday;
- (c) in computing any period of time Sundays shall not be disregarded.

(2) Where any claim for unemployment benefit is made during one of the periods set out in paragraph (3), the following provisions shall apply—

- (a) a claim for unemployment benefit may be treated by an adjudication officer as a claim for that benefit for a period, to be specified in his decision, not exceeding 35 days after the date of the claim where that claim is made during the period specified in sub-paragraph (a) of paragraph (3), or 21 days after the date of claim where the claim is made during the period specified in either sub-paragraph (b) or (c) of paragraph (3);

⁽³³⁾ S.I. 1976/1267; relevant amending instruments are S.I. 1980/110, 1986/1172.

⁽³⁴⁾ 1971 c. 80.

Status: This is the original version (as it was originally made).

- (b) on any claim so treated, benefit may be awarded as if the provisions of paragraph (4) of regulation 17 applied.
- (3) For the purposes of paragraph (2) the periods are—
- (a) in the case of Christmas and New Year holidays, a period beginning with the start of the 35th day before the first day of office closure and ending at midnight between the last day of office closure and the following day;
 - (b) in the case of Good Friday and Easter Monday, a period beginning with the start of the 16th day before the first day of the office closure and ending at midnight between the last day of office closure and the following day;
 - (c) in the case of any other public holiday, a period beginning with the start of the 14th day before the first day of office closure and ending at midnight between the last day of office closure and the following day.

SCHEDULE 3

Regulation 18(1)

DURATION OF DISALLOWANCE

Column (1)	Column (2)
Sickness benefit or unemployment benefit.	The contribution condition in paragraph 1(2) of Schedule 3 to the Social Security Act 1975 is not satisfied; or although that condition is satisfied, the contribution condition in paragraph 1(3) of that Schedule is not satisfied.
Invalidity benefit.	The claimant has not been entitled to sickness benefit for 168 days in the relevant period of interruption of employment.
Severe disablement allowance.	The claimant has not— (a) been incapable of work for 196 consecutive days; or (b) satisfied the requirements of regulation 3 of the Social Security (Severe Disablement Allowance) Regulations 1984 ⁽³⁵⁾ (residence and presence conditions).

⁽³⁵⁾ S.I. 1984/1303.

SCHEDULE 4

Regulation 19(1)

PRESCRIBED TIMES FOR CLAIMING BENEFIT

Description of benefit (1)	Prescribed time for claiming benefit (2)
1. Unemployment benefit.	The day in respect of which the claim is made.
2. Sickness benefit, invalidity benefit or severe disablement allowance—	(a) (a) The day in respect of which the claim is made and the period of 1 month immediately following it.
(a) Where the claim is an original claim, that is to say, where the claimant has at no time made a claim for sickness benefit or severe disablement allowance under the Act or a claim which has been treated as a claim for sickness benefit or severe disablement allowance.	
(b) (b) Where the claim is not an original claim but is the first claim made by the claimant after he has become or again becomes incapable of work.	(b) (b) he day in respect of which the claim is made and the period of 6 days immediately following it.
(c) (c) Where the claim is a continuation claim, that is to say a claim to which neither sub-paragraph (a) nor sub-paragraph (b) of this paragraph applies.	(c) (c) The day in respect of which the claim is made and the period of 10 days immediately following it.
3. Disablement benefit (not being an increase of benefit).	As regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to benefit, that day and the period of 3 months immediately following it.
4. Increase of disablement benefit under section 61 (constant attendance), or 63 (exceptionally severe disablement) of the Social Security Act 1975.	As regards any day on which apart from satisfying the conditions that there is a current award of disablement benefit and the making of a claim, the claimant is entitled to benefit, that day and the period of 3 months immediately following it.
5. Reduced earnings allowance.	As regards any day on which apart from satisfying the conditions that there is an assessment of disablement of not less than one per cent. and the making of a claim, the claimant is entitled to the allowance, that day and the period of 3 months immediately following it.

For the purposes of this Schedule—

“actual date of confinement” means the date of the issue of the child or, if the woman is confined of twins or a greater number of children, the date of the issue of the last of them; and
“confinement” means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead.

Status: This is the original version (as it was originally made).

Description of benefit (1)	Prescribed time for claiming benefit (2)
6. Income support.	The first day of the period in respect of which the claim is made.
7. Family credit.	<p>(a) (a) Where family credit has previously been claimed and awarded the period beginning 28 days before and ending 14 days after the last day of that award;</p> <p>(b) subject to (a), the first day of the period in respect of which the claim is made.</p>
8. Social fund payment in respect of maternity expenses.	The period beginning 11 weeks before the first day of the expected week of confinement and ending 3 months after the actual date of confinement or, in the case of an adopted baby, the date of the adoption order.
9. Social fund payment in respect of funeral expenses.	3 months from the date of the funeral.
10. Increase of disablement benefit under section 62 of the Social Security Act 1975(36) on the grounds of receipt of hospital treatment.	As regards any day on which, apart from satisfying the conditions that there is a current award of disablement benefit and the making of a claim, the claimant is entitled to benefit, that day and the period 3 months immediately following it.
<p>For the purposes of this Schedule—</p> <p>“actual date of confinement” means the date of the issue of the child or, if the woman is confined of twins or a greater number of children, the date of the issue of the last of them; and</p> <p>“confinement” means labour resulting in the issue of a living child, or labour after 28 weeks of pregnancy resulting in the issue of a child whether alive or dead.</p>	

SCHEDULE 5

Regulation 19

MISCELLANEOUS PROVISIONS WHICH VARY THE PRESCRIBED TIMES UNDER SCHEDULE 4

Unemployment benefit

1. A person who claims unemployment benefit in respect of any day shall not be disentitled to that benefit by reason of his failure to make a claim for it on that day if—

- (a) that claim is made on a day specified for the purpose of his claiming unemployment benefit in a notice previously given to him by the Secretary of State; and either
- (b) that claim is made on the first or only day so specified in that notice; or

(36) 1975 c. 14. Section 62 was repealed from 6th April 1987 by paragraph 7 of Schedule 3 to the Social Security Act 1986 (c. 50) but its effect is preserved in relation to certain existing cases as mentioned in that paragraph.

- (c) he has claimed unemployment benefit on every day so specified in that notice which falls before the day on which that claim is made.

Sickness benefit etc claimed by hospital in-patient

2.—(1) Where it is being determined whether the provisions of regulation 19(2) (good cause) have been satisfied by a person who is, or has been, an in-patient in a hospital and who makes a claim for sickness or invalidity benefit or severe disablement allowance, any such provision shall, in relation only to that claim, be deemed to have been satisfied by him in respect of that one of the following periods which is appropriate in so far as it is relevant for the purpose of any provision:—

- (a) where the person concerned has been discharged from the hospital, the period commencing on the date of his admission thereto as an in-patient and ending 13 weeks thereafter or 3 weeks after the date of his discharge, whichever period is the shorter; or
- (b) where the person concerned has not been so discharged, the period of 13 weeks from the date of his admission to the hospital as an in-patient;

and where the person concerned claims an increase of that benefit or allowance in respect of a child or adult dependant within the period of 1 month from the date of the claim to that benefit or allowance, any such provision shall be deemed to be satisfied for the whole of the period in respect of which the claim to that benefit or allowance is made.

(2) For the purposes of paragraph 2(1) above—

- (a) in ascertaining the date of admission to hospital of the person concerned, where that person has previously been an in-patient in one or more hospitals for one or more periods any such period shall be taken into account; so however that the interval, or (if there was more than one previous period as an in-patient) each interval, between the end of such period and the beginning of the appropriate period specified in paragraph 2(1) above does not exceed 3 weeks;
- (b) “hospital” means any institution for the reception and treatment of persons suffering from illness and any maternity home (and, for this purpose, “illness” includes mental disorder and any injury or disability requiring medical treatment or nursing); and
- (c) “in-patient” means a person who is admitted as an in-patient to a hospital for the purposes of receiving treatment (not being treatment during convalescence) by or under the direction of a registered medical practitioner.

SCHEDULE 6

Regulation 22(3)

DAYS FOR PAYMENT OF LONG TERM BENEFITS

Attendance allowance

1. Subject to the provisions of regulation 25 (payment of attendance allowance and constant attendance allowance at a daily rate) attendance allowance shall be payable on Mondays, except that the Secretary of State may in any particular case arrange for the allowance to be payable on any other day of the week and where it is in payment to any person and the day on which it is payable is changed, it shall be paid at a daily rate of 1/7th of the weekly rate in respect of any of the days for which payment would have been made but for that change.

Guardian's allowance

2. Guardian's allowance shall be payable on Tuesdays or, if the Secretary of State so arranges in respect of any particular case, on Mondays.

Industrial injuries benefit

3. Any pension or allowance under Chapter IV or V of Part II of the Social Security Act 1975, including any increase, shall be payable on Wednesdays.

Invalid care allowance

4. Invalid care allowance shall be payable on Mondays, except that where a person is entitled to that allowance in respect of a severely disabled person by virtue of regulation 3 of the Social Security (Invalid Care Allowance) Regulations 1976⁽³⁷⁾ the invalid care allowance shall be payable on Wednesdays.

Retirement pension

5. Retirement pension shall be payable on Mondays, except that—
- (a) where a person became entitled to a retirement pension before 28th September 1984, that pension shall be payable on Thursdays;
 - (b) where a woman was entitled to a widow's benefit immediately before becoming entitled to a retirement pension, that pension shall be payable on Tuesdays;
 - (c) where a woman becomes entitled to a retirement pension immediately following the payment to her husband of an increase of retirement pension in respect of her, the retirement pension to which she becomes entitled shall be payable on the same days as those upon which the retirement pension of her husband is payable;
 - (d) the Secretary of State may, notwithstanding anything contained in the foregoing provisions of this paragraph, arrange for retirement pension to be payable on such other day of the week as he may in any particular case determine;
 - (e) where, in relation to any person, any particular day of the week has become the appropriate day of the week for the payment of retirement pension, that day shall thereafter remain the appropriate day in his case for such payment.

Widowed mother's allowance and widow's pension

6. Widowed mother's allowance and widow's pension shall be payable on Tuesdays.

Mobility allowance

7. Mobility allowance shall be payable on Wednesdays.

(37) S.I. 1976/409, to which there are amendments not relevant to these Regulations.

SCHEDULE 7

Regulation 26

MANNER AND TIME OF PAYMENT, EFFECTIVE DATE OF CHANGE OF CIRCUMSTANCES AND COMMENCEMENT OF ENTITLEMENT IN INCOME SUPPORT CASES

Manner of payment

1. Except as otherwise provided in these Regulations income support shall be paid in arrears in accordance with the award by means of an instrument of payment.

Time of payment

2. Income support shall be paid in advance where the claimant is—

- (a) in receipt of retirement pension; or
- (b) over pensionable age and not in receipt of unemployment benefit, sickness or invalidity benefit or severe disablement allowance and is not a person to whom section 23 of the Social Security Act 1986 (trade disputes) applies unless he was in receipt of income support immediately before the trade dispute began; or
- (c) in receipt of widow's benefit and is not registering or required to register as available for work or providing or required to provide medical evidence of incapacity for work; or
- (d) a person to whom section 23(8) of the Social Security Act 1986 applies, but only for the period of 15 days mentioned in that subsection.

3. Income support in respect of any benefit week shall, if the beneficiary is entitled to a relevant social security benefit or would be so entitled but for failure to satisfy the contribution conditions or had not exhausted his entitlement, be paid on the day and at the intervals appropriate to payment of that benefit and otherwise at such intervals and on such day as the Secretary of State may direct.

4. In paragraph 3—

“benefit week” means, if the beneficiary is entitled to a relevant social security benefit or would be so entitled but for failure to satisfy the contribution conditions or had not exhausted his entitlement, the week corresponding to the week in respect of which that benefit is paid, and in any other case a period of 7 days beginning or ending with such day as the Secretary of State may direct; and

“relevant social security benefit” means unemployment benefit, sickness benefit, invalidity benefit, severe disablement allowance, retirement pension or widow's benefit.

Payment of small amounts of income support

5. Where the amount of income support is less than £1.00 a week the Secretary of State may direct that it shall be paid at such intervals as may be specified not exceeding 13 weeks.

Commencement of entitlement to income support

6.—(1) Subject to sub-paragraphs (3) and (4), in a case where income support is payable in arrears entitlement shall commence on the date of claim.

(2) Subject to sub-paragraphs (3) and (4), in a case where, under paragraph 2, income support is payable in advance entitlement shall commence on the date of claim if that day is a day for payment of income support as determined under paragraph 3 but otherwise on the first such day after the date of claim.

(3) If on the date for commencement of entitlement to income support determined under sub-paragraph (1) or, as the case may be, sub-paragraph (2) all the conditions for such entitlement are not satisfied entitlement shall commence on the first later date when those conditions are satisfied.

(4) Where the time for claiming is extended under regulation 19 the claim shall be treated as made on the first day of the period in respect of which the claim is, by reason of the operation of that regulation, timeously made.

(5) If a claim is made by a claimant within 3 days of the date on which he became resident at a hostel as defined in regulation 20(2) of the Income Support (General) Regulations 1987⁽³⁸⁾ of a type mentioned in head (b)(iii) of that definition (hostel managed by voluntary body to provide care, support or supervision for rehabilitation or resettlement of persons within the community) then, except to the extent that it relates to amounts other than the charges for accommodation in the hostel, it shall be treated as having been made on the day he became so resident.

(6) Where, in consequence of a further claim for income support such as is mentioned in sub-paragraph 4(7) of Schedule 3 to the Income Support (General) Regulations 1987, a claimant is treated as occupying a dwelling as his home for a period before moving in, that further claim shall be treated as having been made on the date from which he is treated as so occupying the dwelling or the date of the claim made before he moved in to the dwelling and referred to in that sub-paragraph, whichever is the later.

Date when change of circumstances is to take effect

7.—(1) Subject to sub-paragraph (2), where the amount of income support payable under an award is changed because of a change of circumstances that change shall have effect—

- (a) where income support is paid in arrears, from the first day of the benefit week in which the change occurs or, if entitlement ends for a reason other than that the claimant no longer satisfies the provisions of section 20(3)(b) of the Social Security Act 1986, from the date of the change of circumstances; or
- (b) where income support is paid in advance, from the date of the change of circumstances if that is the first day of the benefit week and otherwise from the next following such day.

(2) Where the change of circumstances requires a reduction in the amount of income support then, if the Secretary of State certifies that it is impracticable to give effect to that reduction from the date specified in sub-paragraph (1), the change shall have effect from the first day of the following benefit week.

SCHEDULE 8

Regulation 23(1)(a)

ELECTION TO HAVE CHILD BENEFIT PAID WEEKLY

1. A person to whom benefit is payable for an uninterrupted period beginning before and ending after 15th March 1982 may make an election, in accordance with paragraph 3, that benefit be payable weekly after that date, if either—

- (a) he makes the election before the end of the 26th week from the day on which benefit was payable for the first four weeks in respect of which the Secretary of State made arrangements for four-weekly payment to the person entitled in accordance with regulation 21 or regulation 23(1)(b); or
- (b) he was absent from Great Britain on the 15th March 1982 for one of the reasons specified in paragraph 4 and he makes the election before the end of the 26th week of the period

⁽³⁸⁾ S.I. 1987/1967.

beginning with the first week in respect of which benefit became payable to him in Great Britain on his return.

2. Subject to paragraph 5, a person entitled to benefit may make an election, in accordance with paragraph 3, that benefit be paid weekly if he satisfies either of the following conditions:

- (a) he satisfies the conditions specified in regulation 2(2)(a), (b) and (c) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976⁽³⁹⁾ (conditions for increase of child benefit for person living alone), or
- (b) he, or his spouse residing with him or the person with whom he is living as husband and wife, is receiving income support or family credit.

3. An election for benefit to be payable weekly under paragraphs 1 or 2 shall be effected by giving notice in writing to the Secretary of State delivered or sent to the appropriate office and shall be made when it is received.

4. An election may not be made under paragraph 1(b) unless the person's absence abroad on the 15th March 1982 was by reason of his being—

- (a) a serving member of the forces, as defined by regulation 1(2) of the Social Security (Contributions) Regulations 1979⁽⁴⁰⁾, or
- (b) the spouse of such a member, or
- (c) a person living with such a member as husband and wife.

5. Every person making an election for benefit to be paid weekly under paragraph 2 shall furnish such certificates, documents and such other information of facts as the Secretary of State may, in his discretion, require, affecting his right to receive payment of benefit weekly and in particular shall notify the Secretary of State in writing of any change of circumstances which he might reasonably be expected to know might affect the right to receive payment of benefit weekly, as soon as reasonably practicable after the occurrence thereof.

6. Where a person makes an election, in accordance with this regulation, for benefit to be paid weekly, it shall continue to be so payable—

- (a) in the case of an election under paragraph 1, so long as that person remains continually entitled to benefit, or
- (b) in the case of an election under paragraph 2, so long as that person remains continually entitled to benefit and the conditions specified in that paragraph continue to be satisfied.

7. A person who has made an election that benefit be payable weekly may cancel it at any time by a notice in writing delivered or sent to the appropriate office; and effect shall be given to such a notice as soon as is convenient.

SCHEDULE 9

Regulation 35

DEDUCTIONS FROM BENEFIT AND DIRECT PAYMENT TO THIRD PARTIES

Interpretation

1. In this Schedule—

“family” in the case of a claimant who is not a member of a family means that claimant;

⁽³⁹⁾ S.I. 1976/1267; relevant amending instruments are S.I. 1980/110 and 1986/1172.

⁽⁴⁰⁾ S.I. 1979/591, to which there are amendments not relevant to these Regulations.

Status: This is the original version (as it was originally made).

“the Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987⁽⁴¹⁾;

“housing costs” means those costs specified in paragraph 1(a), (b), (c) (but in the case of ground rent or feu duty only when paid with service charges), (d), (e) and (f) of Schedule 3 to the Income Support Regulations;

“income support” means income support under Part II of the Social Security Act 1986;

“the Income Support Regulations” means the Income Support (General) Regulations 1987⁽⁴²⁾;

“miscellaneous accommodation costs” has the meaning assigned by paragraph 4(1);

“mortgage payment” means a payment attributable to interest on a mortgage which falls to be met under paragraph 7 of Schedule 3 to the Income Support Regulations (interest on loans to acquire an interest in the home); and for the purposes of this Schedule includes interest payable on loans which falls to be met under paragraph 8 of that Schedule (interest on loans for repairs and improvements to the home);

“specified benefit” means income support either alone or together with any unemployment, sickness or invalidity benefit, retirement pension or severe disablement allowance which is paid by means of the same instrument of payment;

“personal allowance for a single claimant aged not less than 25 years” means the amount specified in paragraph 1(1)(c) of column 2 of Schedule 2 to the Income Support Regulations;

“prisoner” means a person detained in custody pending trial or sentence;

“rent” has the meaning assigned to it in the Housing Benefit Regulations and, for the purposes of this Schedule—

- (a) includes any water charges which are paid with or as part of the rent;
- (b) where in a particular case a claimant’s rent includes elements which would not otherwise fall to be treated as rent, references to rent shall include those elements; and
- (c) references to “rent” include references to part only of the rent; and

“water charges” means charges or rates in respect of water and, except in Scotland, of sewerage and allied environmental services.

General

2.—(1) The specified benefit may be paid direct to a third party in accordance with the following provisions of this Schedule in discharge of a liability of the beneficiary or his partner to that third party in respect of—

- (a) housing costs;
- (b) miscellaneous accommodation costs;
- (c) service charges for fuel, and rent not falling within head (a) above;
- (d) fuel costs; and
- (e) water charges.

(2) No payment to a third party may be made under this Schedule unless the amount of the beneficiary’s award of the specified benefit is not less than the total of the amount otherwise authorised to be so paid under this Schedule plus 10 pence.

(3) A payment to be made to a third party under this Schedule shall be made, at such intervals as the Secretary of State may direct, on behalf of and in discharge (in whole or in part) of the obligation of the beneficiary or, as the case may be, of his partner, in respect of which the payment is made.

⁽⁴¹⁾ S.I. 1987/1971.

⁽⁴²⁾ S.I. 1987/1967.

Housing costs

3.—(1) Subject to sub-paragraph (4) and paragraph 8, where a beneficiary who has been awarded the specified benefit or his partner is in debt for any item of housing costs which continues to be applicable to the beneficiary in the determination of his applicable amount, the adjudicating authority may, if in its opinion it would be in the interests of the family to do so, determine that the amount of the award of the specified benefit (“the amount deductible”) calculated in accordance with the following sub-paragraphs shall be paid in accordance with sub-paragraph 2(3).

(2) Subject to sub-paragraph (3), the amount deductible shall be such weekly aggregate of the following as is appropriate:—

- (a) in respect of any debt to which sub-paragraph (1) applies, or where the debt owed is in respect of an amount which includes more than one item of housing costs, a weekly amount equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 (that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple) for such period as it is necessary to discharge that debt, so however that in aggregate the weekly amount calculated under this sub-paragraph shall not exceed 3 times that 5 per cent.;
- (b) for each such debt—
 - (i) in respect of mortgage payments, the weekly amount of the mortgage payment in that case; and
 - (ii) for any other housing item, the actual weekly cost necessary in respect of continuing needs for the relevant items,

and the adjudicating authority may direct that, when the debt is discharged, the amount determined under sub-paragraph (b) shall be the amount deductible.

(3) Where the aggregate amount calculated under sub-paragraph (2) is such that paragraph 2(2) would operate to prevent any payment under this paragraph being made that aggregate amount shall be adjusted so that 10 pence of the award is payable to the beneficiary.

(4) Sub-paragraph (1) shall not apply to any debt which is either—

- (a) in respect of mortgage payments and the beneficiary or his partner has in the preceding 12 weeks paid sums equal to 8 week’s mortgage payments due in that period;

or

- (b) for any other item of housing costs and is less than half the annual amount due to be paid by the beneficiary or his partner in respect of that item,

unless, in either case, in the opinion of the adjudicating authority it is in the overriding interests of the family that paragraph (1) should apply.

Miscellaneous accommodation costs

4.—(1) Where an award of income support includes an amount under Schedule 4 (persons in residential care and nursing homes) or Schedule 5 (persons in board and lodging accommodation or hostels) or paragraph 13 (residential accommodation) or 14 (Polish resettlement) or 15 (resettlement units) of Schedule 7 to the Income Support Regulations “miscellaneous accommodation costs” the adjudicating authority may determine that an amount of the specified benefit shall be paid direct to the person or body to whom the charges in respect of that accommodation are payable, but, except in a case to which paragraph 14 or 15 of Schedule 7 to the Income Support Regulations apply or where the accommodation is a hostel run by a voluntary organisation and which is akin to a resettlement unit or which provides facilities for alcoholics or drug addicts, only if the adjudicating authority is satisfied that the beneficiary has failed to budget for the charges and that it is in the interests of the family.

(2) In relation to miscellaneous accommodation costs the amount of any payment of income support to a third party determined under the above paragraphs shall be—

- (a) the amount of the award under paragraph 1(1)(a) of Schedule 4 to the Income Support Regulations excluding any increase under paragraph 2(2) of that Schedule; or
- (b) the amount of the award under paragraph 1(1)(a) of Schedule 5 to those Regulations excluding any increase under paragraph 2 of that Schedule; or
- (c) the amount of the award under paragraph 13(a), 14 or, as the case may be, 15 of Schedule 7 to those Regulations excluding the amount allowed by those paragraphs in respect of personal expenses,

as the case may be.

Service charges for fuel, and rent not falling within paragraph 2(1)(a)

5.—(1) Subject to paragraph 8, this paragraph applies to a beneficiary if—

- (a) he has been awarded the specified benefit; and
- (b) he or his partner is entitled to housing benefit in the form of a rent rebate or rent allowance; and
- (c) he or his partner has arrears of rent which equal or exceed four times the full weekly rent payable and—
 - (i) there are arrears of rent in respect of at least 8 weeks and the landlord has requested the Secretary of State to make payments in accordance with this paragraph; or
 - (ii) there are arrears of rent in respect of less than 8 weeks and in the opinion of the adjudicating authority it is in the overriding interests of the family that payments shall be made in accordance with this paragraph.

(2) For the purposes of sub-paragraph (1) arrears of rent do not include—

- (a) the 20 per cent. of eligible rates excluded from a rent allowance under regulation 61 of the Housing Benefit Regulations (maximum housing benefit); or
- (b) any amount which falls to be deducted when assessing a person's rent rebate or rent allowance under regulation 63 of those Regulations (non-dependants).

(3) Subject to sub-paragraph (4), the adjudicating authority shall determine that a weekly amount of the specified benefit awarded to the beneficiary shall be paid to his or his partner's landlord if—

- (a) he or his partner is entitled to housing benefit and in calculating that benefit a deduction is made under regulation 10(3) of the Housing Benefit Regulations in respect of either or both of water charges or service charges for fuel; and
- (b) the amount of the beneficiary's award is not less than the amount of the deduction,

and the amount to be so paid shall be equal to the amount of the deduction.

(4) Sub-paragraph (3) shall not apply to a deduction in respect of a service charge for fuel if that charge is one such as is mentioned in paragraph 5(5) of Schedule 1 to the Housing Benefit Regulations (variable service charges for fuel) unless the adjudicating authority is satisfied on the evidence available at the date of the determination that the amount of the charge does not normally alter more than twice in any one year.

(5) Where the aggregate amount calculated in accordance with sub-paragraphs 5(3) and (6) exceeds a sum equal to 25 per cent. of the applicable amount for the family as is awarded under heads (a) to (d) of regulation 17 (applicable amounts) or heads (a) to (f) of regulation 18(1) (polygamous marriages) of the Income Support Regulations a determination under this paragraph shall be made only with the consent of the beneficiary.

(6) In a case to which sub-paragraph (1) applies the adjudicating authority may determine that a weekly amount of the specified benefit awarded to that beneficiary equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 (that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple) shall be paid to his landlord until the debt is discharged.

Fuel costs

6.—(1) Subject to sub-paragraph (6) and paragraph 8, where a beneficiary who has been awarded the specified benefit or his partner is in debt for any item of mains gas or mains electricity (“fuel item”) to an amount not less than the rate of personal allowance for a single claimant aged not less than 25 and continues to require that fuel, the adjudicating authority, if in its opinion it would be in the interests of the family to do so, may determine that the amount of the award of the specified benefit (“the amount deductible”) calculated in accordance with the following paragraphs shall be paid to the person or body to whom payment is due in accordance with paragraph 2(3).

(2) The amount deductible shall, in respect of any fuel item, be such weekly aggregate of the following as is appropriate:—

- (a) subject to sub-paragraph (3), in respect of the debt to which sub-paragraph (1) applies (“the original debt”), a weekly amount equal to 10 per cent. of the personal allowance for a single claimant aged not less than 25 (that 10 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple) and increased, where appropriate, in accordance with sub-paragraph (5) for such period as is necessary to discharge the original debt, so however that the amount, or, where an original debt remains outstanding in respect of more than one fuel item, the aggregate of the amounts, calculated under this sub-paragraph shall not exceed three times 5 per cent. of the personal allowance for a single claimant aged not less than 25;
- (b) except where current consumption is paid for by other means (for example pre-payment meter), an amount equal to the estimated average weekly cost necessary to meet the continuing needs for that fuel item, varied, when appropriate, in accordance with sub-paragraph (4)(a).

(3) Where—

- (a) an original debt remains outstanding in respect of more than one fuel item; or
- (b) in any other case the aggregate amount calculated under sub-paragraph (2) exceeds the award of the specified benefit,

sub-paragraph (2)(a) shall apply as if for the figure “10 per cent.” there were substituted the figure “5 per cent.”.

(4) Where an amount is being paid direct to a person or body on behalf of the beneficiary or his partner in accordance with a determination under sub-paragraph (1) and that determination falls to be reviewed—

- (a) where since the date of that determination the average weekly cost estimated for the purpose of sub-paragraph (2)(b) has either exceeded or has proved insufficient to meet the actual cost of continuing consumption so that in respect of the continuing needs for that fuel item the beneficiary or his partner is in credit or, as the case may be, a further debt has accrued, the adjudicating authority may determine that the weekly amount calculated under that paragraph shall, for a period of 26 weeks, be adjusted so as to take account of that credit or further debt;
- (b) where an original debt in respect of any fuel item has been discharged the adjudicating authority may determine that the amount deductible in respect of that fuel item shall be the amount determined under sub-paragraph (2)(b).

Status: This is the original version (as it was originally made).

(5) Where the beneficiary or his partner has any disregarded income under regulation 36(2) (calculation of net earnings of employed earners), 38(2) (calculation of net profit of self employed earners) or 40(2) (calculation of income other than earnings) of the Income Support Regulations, the weekly amount, or, where an original debt remains outstanding in respect of more than one fuel debt, the aggregate of the weekly amounts deductible under sub-paragraph (2)(a) may be increased by not more than half the amount of the income disregarded.

(6) Subject to paragraph 8 where, before any application of sub-paragraph (5), the aggregate amount calculated in accordance with sub-paragraph (2) exceeds a sum equal to 25 per cent. of the applicable amount for the family as is awarded under heads (a) to (d) of regulation 17 or heads (a) to (f) of regulation 18(1) of the Income Support Regulations, a determination under this paragraph shall be made only with the consent of the beneficiary.

(7) Sub-paragraph (1) shall not apply to any debt where the aggregate amount calculated under sub-paragraph (2) exceeds the award of specified benefit.

Water charges

7.—(1) Subject to sub-paragraph (2) and paragraph 8, where a beneficiary or his partner is liable, whether directly or indirectly, for water charges and is in debt for those charges to an amount not less than half the annual charge the adjudicating authority may determine that a weekly amount of the specified benefit shall be paid to the water undertaker to whom that debt is owed (or to the person or body authorised to collect water charges for that undertaker).

(2) This paragraph does not apply in a case where water charges are paid with rent.

(3) The weekly amount to be paid in accordance with sub-paragraph (1) shall be the aggregate of—

- (a) in respect of the debt an amount equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 years (that 5 per cent. being, where it is not a multiple of 5 pence, rounded to the next higher such multiple); and
- (b) an amount equal to the weekly cost necessary to meet the continuing need for water charges.

(4) In this paragraph “water undertaker” has the same meaning as “statutory water undertaker” has in section 11(6) of the Water Act 1973⁽⁴³⁾ or, in Scotland, the meaning that “water authority” has in section 3 of the Water (Scotland) Act 1980⁽⁴⁴⁾.

Maximum amount of payments to third parties

8.—(1) The maximum aggregate amount payable under sub-paragraphs 3(2)(a), 5(6), 6(2)(a) and 7(3)(a) shall not exceed an amount equal to 3 times 5 per cent. of the personal allowance for a single claimant aged not less than 25 years.

(2) The maximum amount payable under sub-paragraphs 5(5) and 6(6) shall not without the consent of the beneficiary, exceed a sum equal to 25 per cent. of so much of the applicable amount for the family as is awarded under heads (a) to (d) of regulation 17 or heads (a) to (f) of regulation 18(1) of the Income Support Regulations.

Priority as between certain debts

9.—(1) Where in any one week more than one of the paragraphs 3 to 7 are applicable to the beneficiary and the amount of the specified benefit which may be made to third parties is insufficient to meet the whole of the liabilities for which provision is there made the following order of priorities shall apply—

⁽⁴³⁾ 1973 c. 37.

⁽⁴⁴⁾ 1980 c. 45.

- (a) any liability mentioned in paragraph 3 (housing costs);
- (b) any liability mentioned in paragraph 5 (service charges for fuel and rent not falling within paragraph 2(a));
- (c) any liability mentioned in paragraph 6 (fuel costs);
- (d) any liability mentioned in paragraph 7 (water charges);

(2) As between liability for items of housing costs liabilities in respect of mortgage payments shall have priority over all other items.

(3) As between liabilities for items of gas or electricity the adjudicating authority shall give priority to whichever liability it considers it would, having regard to the circumstances and to any requests of the beneficiary, be appropriate to discharge.

(4) Where water charges are due to 2 or more water undertakers the adjudicating authority shall give priority to whichever liability it considers it would, having regard to the circumstances and to any requests of the beneficiary, be appropriate to discharge.

SCHEDULE 10

Regulation 48

REVOCATIONS

Column (1)	Column (2)	Column (3)
The Mobility Allowance Regulations 1975 (S.I. 1975/1573).	Regulations 5 to 9, 21 and 22.	Social Security Act 1975, sections 37A(45), 81, 114, 119(3) and (4) and 165A(46).
The Mobility Allowance (Motability Payment Arrangements) Regulations 1978 (S.I. 1978/1131).	The whole of the Regulations.	Social Security Act 1975, section 81.
The Social Security (Claims and Payments) Regulations 1979 (S.I. 1979/628).	The whole of the Regulations except Parts I (General), IV (including Schedule 4) (Special Provisions Relating to Industrial Injuries Benefit only) and regulation 31 (breach of regulations).	Social Security Act 1975, sections 79 to 81(47), and 165A.
The Family Income Supplements (Claims and Payments) Regulations 1980 (S.I. 1980/1438).	The whole of the Regulations.	Family Income Supplements Act 1970, sections 5(2) and 10(2).
The Supplementary Benefit (Claims and Payments)	The whole of the Regulations.	Supplementary Benefits Act 1976, sections 11 and 14(1) (a), (b), (c), (e), (g), (h), (i) and

(45) Section 37A was inserted by the Social Security Pensions Act 1975 (c. 60), section 22(1).

(46) Section 165A was inserted by the Social Security Act 1985 (c. 53), section 17 and amended by the Social Security Act 1986 (c. 50), Schedule 10, paragraph 87.

(47) Sections 79 to 81 have been amended by the Child Benefit Act 1975 (c. 61), Schedule, Part I, the Supplementary Benefits Act 1976 (c. 71), Schedule 7, paragraph 37, the Social Security (Miscellaneous Provisions) Act 1977 (c. 5), section 17(2), the Social Security and Housing Benefits Act 1982 (c. 24), Schedule 4, paragraph 14 and Schedule 5 and the Health and Social Security Act 1984 (c. 48) Schedule 4, paragraph 3.

Status: This is the original version (as it was originally made).

Column (1)	Column (2)	Column (3)
Regulations 1981 (S.I. 1981/1525).		(k) and (2) and Schedule 1, paragraph 4.
The Social Security (General Benefit) Regulations 1982 (S.I. 1982/1408).	Regulations 8, 9(1) to (4) and (7) to (9) and 41.	Social Security Act 1975 section 81(6) and section 119(3) and (4).
The Social Security (Adjudication) Regulations 1984 (S.I. 1984/451).	Regulation 76.	Social Security Act 1975 section 119(3) and (4); Child Benefit Act 1975(48) sections 7 and 22.
The Child Benefit (Claims and Payments) Regulations 1984 (S.I. 1984/1960).	The whole of the Regulations, except regulations 1(1), (2) and (4) and 12.	Child Benefit Act 1975, sections 6(1) and (3) to (5), 11(2) and 22(1)(b).
The Social Fund Maternity and Funeral Expenses (Claims and Payments) Regulations 1986 (S.I. 1986/2172).	The whole of the Regulations.	Social Security Act 1975, section 114 and Social Security Act 1986, sections 51(1)(a) to (s), 54 and 84(1).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations contain provisions about the making of claims for, and the payment of, benefits under the Social Security Acts 1975–86 and the Child Benefit Act 1975. They are made before the end of the period of 12 months from the commencement of the enactments under which they are made and are therefore exempt, under section 61(5) of the Social Security Act 1986, from the requirement in section 10 of the Social Security Act 1980 to refer proposals to make the regulations to the Social Security Advisory Committee.

Part I of the Regulations contains general provisions including definitions.

Part II, with Schedules 1 to 5, contains provisions about claims for benefit. In particular, the cases in which claims are not required; the method of making a claim and the time limits for doing so; interchange with other claims; advance claims for and awards of benefit and the duration of awards and disallowance.

Part III, with Schedules 6 to 8, specifies the time when, and the method by which, benefit is to be paid. Schedule 7, which deals with income support, also contains provisions about when entitlement is to begin and when a change of circumstances is to have effect.

Part IV and Schedule 9 sets out the circumstances in which benefit may be paid to someone other than the beneficiary.

Part V is about the suspension of benefit and the extinguishment of the right to payment.

Part VI contains special provisions for mobility allowance.

(48) [1975 c. 61](#).

Part VII and Schedule 10 contain miscellaneous provisions and revocations.