

[See S.I. 1999/779 at page 1.6401 for details of treatment of persons and payments participating in New Deal 25 plus].

## 1987 No. 1968

### SOCIAL SECURITY

#### The Social Security (Claims and Payments) Regulations 1987

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

*Laid before Parliament* *11th April 1988*

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10. Revocations

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(a), section 6(1) of the Child Benefit Act 1975(b), sections 21(7), 51(1)(a) to (s), 54(1) and 84(1) of the Social Security Act 1986(c) 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:-

[In the following S.I. wherever the words "training for work" appear substitute the words "work based training for adults" except in the case of reference to the title or principal order or of the 1993 order. As per S.I. 1998/1426 from 3.7.98].

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

## PART I GENERAL

### Citation <sup>1</sup>, commencement and application <sup>4</sup>

▶<sup>1</sup>1.—(1)◀ These Regulations may be cited as the Social Security (Claims and Payments) Regulations 1987 and shall come into operation on 11th April 1988.

▶<sup>1</sup>(2) In so far as these Regulations apply to—

- (a) an employment and support allowance, they apply to that allowance under Part 1 of the Welfare Reform Act as it has effect apart from the amendments made by Schedule 3 and Part 1 of Schedule 14 to the Welfare Reform Act 2012 that remove references to an income-related allowance;
- (b) a jobseeker's allowance, they apply to that allowance under the Jobseekers Act as it has effect apart from the amendments made by Part 1 of Schedule 14 to the Welfare Reform Act 2012 that remove references to an income-based allowance.

(3) These Regulations do not apply to universal credit (within the meaning of Part 1 of the Welfare Reform Act 2012) or personal independence payment (within the meaning of Part 4 of that Act).◀

### Interpretation

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

▶<sup>2</sup>◀

▶<sup>3</sup>“the 1992 Act” means the Social Security Administration Act 1992;◀

▶<sup>4</sup>“the 2000 Act” means Electronic Communications Act 2000;◀

▶<sup>5</sup>“the 2002 Act” means the State Pension Credit Act 2002;

▶<sup>6</sup>“the 2013 Regulations” means the Universal Credit, Personal Independence Payment, Jobseeker's Allowance and Employment and Support Allowance (Claims and Payments) Regulations 2013;◀

“advance period” means the period specified in regulation 4E(2);◀

▶<sup>7</sup>“appropriate office” means an office of the Department for Work and Pensions and, where any provision in these Regulations relates to a claim, notice or other information, evidence or document being received by or sent, delivered or otherwise furnished in writing to an appropriate office, includes a postal address specified by the Secretary of State for that purpose.◀

▶<sup>8</sup>“bereavement benefit” means—

- (a) a bereavement payment referred to in section 36 of the Contributions and Benefits Act as in force immediately before it was repealed by paragraph 8 of Schedule 16 to the Pensions Act 2014;
- (b) a bereavement allowance referred to in section 39B of the Contributions and Benefits Act as in force immediately before it was repealed by paragraph 13 of Schedule 16 to the Pensions Act 2014; and
- (c) widowed parents allowance;

“bereavement support payment” means bereavement support payment under section 30 of the Pensions Act 2014;◀

▶<sup>9</sup>“the Board” means the Commissioners of Inland Revenue; and references to “the Board” in these Regulations have effect only with respect to working families' tax credit;◀

▶<sup>10</sup>“claim for asylum” has the same meaning as in the Asylum and Immigration Appeals Act 1993;(a)◀

“claim for benefit” includes—

- (a) an application for declaration that an accident was an industrial accident;
- (b) ▶<sup>11</sup>◀
- (c) an application for ▶<sup>2</sup>a revision under section 9 of the Social Security Act 1998 or a supersession under section 10 of that Act of◀ a decision for the purpose of obtaining any increase of benefit ▶<sup>12</sup>in respect of a child or adult dependant under the Social Security Act 1975 or an increase in disablement benefit under section 60 (special hardship), 61 (constant attendance), 62 (hospital treatment allowance) or 63 (exceptionally severe disablement) of the Social Security Act 1975▶<sup>2</sup>◀, but does not include any other application for ▶<sup>2</sup>a revision or a supersession of◀ a decision;

<sup>1</sup>Words in heading to reg. 1, reg. 1 re-numbered as 1(1) & para. (2) substituted by Sch. 3, reg. 1(2)-(4) of S.I. 2013/380 as from 4.3.13.

<sup>2</sup>Defn. of “adjudicating authority” omitted & words in para. (c) of defn. of “claim for benefit” substituted for some benefits by S.I.s 1999/1958, 1999/2422, 1999/2739 & 1999/2860, and for all other benefits by para. 2 of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

<sup>3</sup>Defn. of “the 1992 Act” inserted in reg. 2(1) by reg. 2(2) of S.I. 2006/3188 as from 27.12.06.

<sup>4</sup>Defn. of “the 2000 Act” inserted in reg. 2(1) by reg. 2 of S.I. 2002/1789 as from 28.10.02 & by reg. 2(1) of S.I. 2003/2800 as from 1.12.03.

<sup>5</sup>Defns. of the “the 2002 Act” & “advance period” inserted in reg. 2(1) by reg. 3(a)(i) of S.I. 2002/3019 as from 6.10.03.

<sup>6</sup>Defn. of “the 2013 Regs.” inserted in reg. 2(1) by reg. 2(2) of S.I. 2013/1508 as from 29.7.13.

<sup>7</sup>Defn. of “appropriate office” substituted in reg. 2(1) by reg. 2(2) of S.I. 2009/1490 as from 13.7.09.

<sup>8</sup>Defns. of bereavement allowance” and “bereavement benefit” substituted by defns. of “bereavement benefit” and “bereavement support payment” by art. 10(2)(a) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

<sup>9</sup>Defn. “the board” inserted by reg. 3(c) of S.I. 1999/2572 as from 5.10.99.

<sup>10</sup>Defn. “claim for asylum” inserted by reg. 7(a) of S.I. 1996/2431 as from 15.10.96.

<sup>11</sup>Para. (b) of reg. 2(1) deleted by reg. 3 of S.I. 1989/1686 as from 9.10.89.

<sup>12</sup>Words inserted into reg. 2(1)(c) by reg. 9(2) of S.I. 1992/247 as from 9.3.92.

(a) 1993 c. 23.

**Reg. 2**

<sup>1</sup>Defn. of “Contributions & Benefits Act” inserted by reg. 9(2) of S.I. 2000/1483 as from 9.4.01.

<sup>2</sup>In reg. 2 defn. of “couple” inserted, by para. 14(2)(a) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>3</sup>Defns. of “disabled person’s tax credit” and “working families’ tax credit” inserted by reg. 3(d) of S.I. 1999/2572 as from 5.10.99.

<sup>4</sup>Defn. of “electronic communication” inserted in reg. 2(1) by reg. 2 of S.I. 2002/1789 as from 28.10.02 & by reg. 2(1) of S.I. 2003/2800 as from 1.12.03.

<sup>5</sup>Defns. of “the Employment & Support Allowance Regulations” & “limited capability for work” inserted by reg. 10(a)(i) & (ii) of S.I. 2008/1554 as from 27.7.08.

<sup>6</sup>Defn. of “guarantee credit” inserted in reg. 2(1) by reg. 3(a)(ii) of S.I. 2002/3019 as from 6.10.03.

<sup>7</sup>Defn. of “instrument for benefit payment” omitted by reg. 2(2) of S.I. 2006/832 as from 10.4.06.

<sup>8</sup>Defns. “the Jobseeker’s Act” inserted by reg. 2(2)(a)(ii) of S.I. 1996/1460 as from 7.10.96.

<sup>9</sup>Defn. of “jobseeker’s allowance” omitted by Sch. 3, reg. 1(5) of S.I. 2013/380 as from 4.3.13.

<sup>10</sup>Defns. of “joint-claim couple” and “joint-claim jobseeker’s allowance” inserted by reg. 2(2) of S.I. 2000/1892.

<sup>11</sup>Words inserted in defn. of “long-term benefits” by reg. 2(2)(a)(i) of S.I. 2005/1551 as from 6.7.05.

<sup>12</sup>Words inserted in defn. of “long-term benefits” by reg. 9(2)(b) of S.I. 2000/1483 as from 9.4.01.

<sup>13</sup>Words in defn. of “long term benefits” omitted in reg. 2(1) by art. 10(2)(a)(ii) of S.I. 2014/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

►<sup>1</sup>“Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;◄

►<sup>2</sup>“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,

and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;◄

►<sup>3</sup>“disabled person’s tax credit” and “working families’ tax credit” shall be construed in accordance with section 1(1) of the Tax Credits Act 1999;◄

►<sup>4</sup>“electronic communication” has the same meaning as in section 15(1) of the 2000 Act;◄

►<sup>5</sup>“the Employment and Support Allowance Regulations” means the Employment and Support Allowance Regulations 2008;◄

►<sup>6</sup>“guarantee credit” is to be construed in accordance with sections 1 and 2 of the 2002 Act;◄

►<sup>7</sup>◄

►<sup>8</sup>“the Jobseekers Act” means the Jobseekers Act 1995;

►<sup>9</sup>◄

“the Jobseeker’s Allowance Regulations” means the Jobseeker’s Allowance Regulations 1996(a);◄

►<sup>10</sup>“joint-claim couple” and “joint-claim jobseeker’s allowance” have the same meaning in these Regulations as they have in the Jobseekers Act by virtue of section 1(4) of that Act(b);◄

►<sup>5</sup>“limited capability for work” has the same meaning as in section 1(4) of the Welfare Reform Act;◄

“long-term benefits” means any retirement pension ►<sup>11</sup>a shared additional pension◄, a widowed mother’s allowance, a widow’s pension, ►<sup>12</sup>widowed parent’s allowance, ►<sup>13</sup>◄, ◄ attendance allowance,

(a) S.I. 1996/207.

(b) Those definitions were inserted into s. 1(4) by s. 59 of, and para. 2(4) of Sch. 7 to, the Welfare Reform and Pensions Act 1999 (c. 3).

## Reg. 2

►<sup>1</sup>disability living allowance◄, ►<sup>2</sup>carer's allowance◄, ►<sup>3</sup>◄ any pension or allowance for industrial injury or disease and any increase in any such benefit;

►<sup>4</sup>◄

“partner” means one of ►<sup>4</sup>a couple◄;

►<sup>5</sup>“pension fund holder” means with respect to a personal pension scheme or retirement annuity contract, the trustees, managers or scheme administrators, as the case may be, of the scheme or contract concerned;◄

►<sup>6</sup>◄

►<sup>7</sup>“personal pension scheme” has the same meaning as in section 1 of the Pension Schemes Act 1993(a) in respect of employed earners and in the case of self-employed earners, includes a scheme approved by the Board of Inland Revenue under Chapter IV of Part XIV of the Income and Corporation Taxes Act 1988(b);◄

►<sup>8</sup>“qualifying age” has the same meaning as in the 2002 Act by virtue of section 1(6) of that Act;◄

►<sup>9</sup>“refugee” means a person recorded by the Secretary of State as a refugee within the definition in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951(c) as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967(d);◄

►<sup>10</sup>“relevant authority” means a person within section 72(2) of the Welfare Reform and Pensions Act 1999(e);◄

►<sup>7</sup>“retirement annuity contract” means a contract or trust scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988;◄

►<sup>11</sup>“shared additional pension” means a shared additional pension under section 55A ►<sup>12</sup>or 55AA◄ of the Contributions and Benefit Act;◄

►<sup>8</sup>“state pension credit” means state pension credit under the 2002 Act;

“State Pension Credit Regulations” means the State Pension Credit Regulations 2002(f);◄

►<sup>13</sup>“universal credit” means universal credit under Part 1 of the Welfare Reform Act 2012;◄

►<sup>14</sup>◄

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

►<sup>15</sup>“the Welfare Reform Act” means the Welfare Reform Act 2007;◄

►<sup>16</sup>“widowed parent's allowance” means an allowance referred to in section 39A of the Contributions and Benefits Act;◄

►<sup>17</sup>“working age benefit” means any of the following—

- (a) ►<sup>18</sup>◄;
- (b) an employment and support allowance;
- (c) incapacity benefit;
- (d) income support;
- (e) a jobseeker's allowance;
- (f) widowed mother's allowance;
- (g) widowed parent's allowance;
- (h) widow's pension.◄

(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;

<sup>1</sup>Words substituted in defn. of “long term benefits” by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

<sup>2</sup>Words substituted in defn. of “long term benefits” in reg. 2(1) by reg. 2(a) of S.I. 1991/2741 as from 3.2.92.

<sup>3</sup>Words deleted in defn. of “long-term benefits” by reg. 2(2) of S.I. 1999/2358 as from 20.9.99.

<sup>4</sup>In reg. 2 defn. of “married couple” omitted and words in defn. of “partner” substituted by para. 14(2)

(b)-(c) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>5</sup>Defn. of “pension fund holder” inserted by reg. 10(2) of S.I. 1995/2303 as from 2.10.95.

<sup>6</sup>Defn. of “period of cold weather” deleted by reg. 5 of S.I. 1991/2284 as from 1.11.91.

<sup>7</sup>Defns. of “personal pension scheme” and “retirement annuity contract” inserted by reg. 10(2) of S.I. 1995/2303 as from 2.10.95.

<sup>8</sup>Defn. of “qualifying age”, “state pension credit” & “State Pension Credit Regulations” inserted by reg. 3(a)(iii) & (iv) of S.I. 2002/3019 as from 6.10.03.

<sup>9</sup>Defn. of “refugee” inserted by reg. 7(a) of S.I. 1996/2431 as from 15.10.96.

<sup>10</sup>Defn. of “relevant authority” inserted by para. 2(2) of Sch. 3 to S.I. 1999/3108 as from 29.11.99.

<sup>11</sup>Defn. of “shared additional pension” inserted in reg. 2(1) by reg. 2(2)(a)(ii) of S.I. 2005/1551 as from 6.7.05.

<sup>12</sup>Words in reg. 2(1) inserted by art. 9(2)(a) of S.I. 2015/1985 as from 6.4.16.

<sup>13</sup>Defn. of “universal credit” inserted in reg. 2(1) by reg. 29(2) of S.I. 2013/630 as from 29.4.13.

<sup>14</sup>Defn. of “unmarried couple” omitted by para. 14(2)(b) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>15</sup>Defn. of “the Welfare Reform Act” inserted by reg. 10(a)(iii) of S.I. 2008/1554 as from 27.7.08.

<sup>16</sup>Defn. of “widowed parent's allowance” inserted by reg. 9(2) of S.I. 2000/1483 as from 9.4.01.

<sup>17</sup>Defn. of “working age benefit” inserted by reg. 2(2) of S.I. 2009/3229 as from 6.4.10.

<sup>18</sup>Para. (a) in defn. of “working age benefit” omitted by art. 10(2)(a)(iii) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

(a) 1993 c. 48.

(b) 1988 c. 1.

(c) Cmd. 9171.

(d) Cmd. 3906.

(e) 1999 c. 30.

(f) S.I. 2002/1792.

## Regs. 2-3

<sup>1</sup>Words inserted in reg. 2(2)(b) by reg. 3(b) of S.I. 2002/3019 as from 7.4.03.

<sup>2</sup>Words substituted in reg. 2(2)(b) by regs. 24 and 25 of S.I. 1999/2572 as from 5.10.99.

<sup>3</sup>Words inserted into reg. 2(2)(b) by reg. 3(2)(b) of S.I. 1988/1725 as from 7.11.88.

<sup>4</sup>Words in reg. 2(b) & 3(1)(cb) paras. (i) & (ii) inserted by art. 9 of S.I. 2015/1985 as from 6.4.16.

<sup>5</sup>Words added in reg. 2(2)(b) & 2(2A) inserted by reg. 2(2) of S.I. 1996/1460 as from 7.10.96.

<sup>6</sup>Words substituted in reg. 2(2)(b) by reg. 10(b) of S.I. 2008/1554 as from 27.7.08.

<sup>7</sup>Words inserted in reg. 2(2)(b) & reg. 3(1)(a)(iv) substituted by art. 10(2)(b) & (3)(a) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

<sup>8</sup>Words substituted in reg. 2(3) by reg. 9(3) of S.I. 1992/247 as from 9.3.92.

<sup>9</sup>Words in reg. 2(3) deleted by reg. 18 of S.I. 1996/1803 as from 7.4.97.

<sup>10</sup>Reg. 2(4) inserted by reg. 3(c) of S.I. 2002/3019 as from 6.10.03.

<sup>11</sup>Para. (za) inserted into reg. 3 by reg. 2(2) of S.I. 2010/1794 as from 2.11.10.

<sup>12</sup>Sub-para (iv) added to reg. 3(a) by reg. 9(3)(a) of S.I. 2000/1483 as from 9.4.01.

<sup>13</sup>Reg. 3(ca) inserted by reg. 2(a) of S.I. 2007/2470 as from 24.9.07.

- (b) a benefit includes any benefit under the Social Security Act 1975(a), child benefit under Part I of the Child Benefit Act 1975(b), income support<sup>1</sup>, state pension credit<sup>2</sup> working families' tax credit<sup>3</sup> and disabled person's tax credit<sup>4</sup> under the Social Security Act 1986 and any social fund payments such as are mentioned in section 32(2)(a)<sup>5</sup> and section 32(2A)<sup>6</sup>(c) of that Act<sup>4</sup>, state pension under Part 1 of the Pensions Act 2014<sup>5</sup> and a jobseeker's allowance under Part 1 of the Jobseekers Act<sup>6</sup>, a shared additional pension<sup>7</sup>, bereavement support payment<sup>8</sup> or an employment and support allowance under Part 1 of the Welfare Reform Act<sup>4</sup>.

<sup>5</sup>(2A) References in regulations 20, 21 (except paragraphs (3) and (3A)), 29, 30, 32 to 34, 37 (except paragraph (1A)), 37A, 37AA (except paragraph (3)), 37AB, 37B, 38 and 47 to "benefit", "income support" or "a jobseeker's allowance", include a reference to a back to work bonus which, by virtue of regulation 25 of the Social Security (Back to Work Bonus) Regulations 1996(d), is to be treated as payable as income support or, as the case may be, as a jobseeker's allowance.<sup>4</sup>

(3) For the purposes of the provisions of these Regulations relating to the making of claims<sup>8</sup> every increase of benefit in respect of a child or adult dependant under the Social Security Act 1975 or an increase of disablement benefit under sections 60 (special hardship), 61 (constant attendance), 62 (hospital treatment allowance) or 63 (exceptionally severe disablement) of the Social Security Act 1975<sup>4</sup> shall be treated as a separate benefit<sup>9</sup><sup>4</sup>.

<sup>10</sup>(4) In these Regulations references to "beneficiary" include any person entitled to state pension credit.<sup>4</sup>

## PART II CLAIMS

### Claims not required for entitlement to benefit in certain cases

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

<sup>11</sup>(za) in the case of a Category A or B retirement pension, where the beneficiary is a person to whom regulation 3A applies;<sup>4</sup>

(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;<sup>12</sup> or

<sup>7</sup>(iv) widowed parent's allowance);<sup>4</sup><sup>4</sup>

(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;

<sup>13</sup>(ca) in the case of a Category A retirement pension where the beneficiary—

(i) is entitled to any category of retirement pension other than a Category A retirement pension; and

(ii) becomes divorced or the beneficiary's civil partnership is dissolved;

(a) 1975 c. 14; amendments altering the range of benefits available under this Act were made by the Social Security Pensions Act 1975 (c. 60), ss. 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), ss. 11 to 13 and Sch. 5 and the Social Security Act 1986 (c. 50), ss. 36 to 42, Sch. 3 and Sch. 4, para. 13.

(b) 1975 c. 61.

(c) Section 32(2A) of the 1986 Act was inserted by s. 11 of and Sch. 3, para. 2 to the Social Security Act 1988 (c. 7).

(d) S.I. 1996/193. [Reg. 25 of S.I. 1996/193 has been re-enacted in reg. 24 of S.I. 1996/2570.]



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- ▶<sup>1</sup>(cb) in the case of a Category B retirement pension where the beneficiary is entitled to either a Category A retirement pension or to a graduated retirement benefit or to both; and
- (i) the spouse or civil partner of the beneficiary becomes entitled to a Category A retirement pension ▶<sup>2</sup>or a state pension under section 4 of the Pensions Act 2014◀; or
- (ii) the beneficiary marries or enters into a civil partnership with a person who is entitled to a Category A retirement pension ▶<sup>2</sup>or a state pension under section 4 of the Pensions Act 2014◀; ▶<sup>3</sup>or
- (iii) the spouse or civil partner of the beneficiary dies having been entitled to a Category A retirement pension ▶<sup>4</sup>or a state pension under section 4 of the Pensions Act 2014◀ at the date of death;◀
- (da) ▶<sup>5</sup>◀◀
- (d) in the case of a Category A or B retirement pension ▶<sup>4</sup>or a state pension under Part 1 of the Pensions Act 2014◀–
- (i) where the beneficiary is a woman over the age of 65 and entitled to a widowed mother's allowance ▶<sup>6</sup>or widowed parent'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 ▶<sup>5</sup>◀, on her attaining that age;
- ▶<sup>7</sup>(e) in the case of retirement allowance(b).◀
- (f) ▶<sup>8</sup>◀
- ▶<sup>9</sup>(g) in the case of a jobseeker's allowance where–
- (i) payment of benefit has been suspended in the circumstances prescribed in regulation 16(2) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999; and
- (ii) the claimant whose benefit has been suspended satisfies the conditions of entitlement (apart from the requirement to claim) to that benefit immediately before the suspension ends;◀
- ▶<sup>10</sup>(h) in the case of income support where the beneficiary–
- (i) is a person to whom regulation ▶<sup>11</sup>▶<sup>12</sup>6(5)◀ of the Income Support (General) Regulations 1987 (persons not treated as engaged in remunerative work) applies;
- (ii) was in receipt of an income-based jobseeker's allowance ▶<sup>13</sup>or an income-related employment and support allowance◀ on the day before the day on which he was first engaged in the work referred to in sub-paragraph (a) of ▶<sup>12</sup>those paragraphs◀; and
- (iii) would satisfy the conditions of entitlement to income support (apart from the condition of making a claim would apply in the absence of this paragraph) only by virtue of ▶<sup>14</sup>▶<sup>12</sup>regulation 6(6)◀ of those Regulations.◀
- ▶<sup>15</sup>(i) in the case of a shared additional pension where the beneficiary is in receipt of a retirement pension of any category.◀
- ▶<sup>16</sup>(j) in the case of an employment and support allowance where–
- (i) the beneficiary has made and is pursuing an appeal against a relevant decision of the Secretary of State, and
- (ii) that appeal relates to a decision to terminate or not to award a benefit for which a claim was made.◀
- ▶<sup>4</sup>(ja) in the case of a state pension under any section of Part 1 of the Pensions Act 2014 where the beneficiary is entitled to–
- (i) a state pension under a different section of Part 1 of that Act; or
- (ii) another state pension under the same section of Part 1 of that Act,◀
- ▶<sup>16</sup>(2) In this regulation–

<sup>1</sup>Reg. 3(cb) substituted by reg. 2(2) of S.I. 2008/441 as from 17.3.08.

<sup>2</sup>Words in reg. 3(1)(cb) paras. (i) & (ii) inserted by art. 9 of S.I. 2015/1985 as from 6.4.16.

<sup>3</sup>Sub-para. (cb)(iii) inserted in reg. 3 by reg. 2(3) of S.I. 2009/1490 as from 13.7.09.

<sup>4</sup>Words in reg. 3(1)(iii), (d) & sub-para. (ja) inserted by art. 9(3)(a)-(d) of S.I. 2015/1985 as from 6.4.16.

<sup>5</sup>Reg. 3(1)(da) & words in (d)(ii) omitted by art. 10(3)(b) & (c) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

<sup>6</sup>Words inserted in regs. 3(d)(i) by reg. 9(3) of S.I. 2000/1483 as from 9.4.01.

<sup>7</sup>Para. (e) added to reg. 3 by reg. 2(2) of S.I. 1989/136 as from 10.4.89.

<sup>8</sup>Reg. 3(f) deleted by reg. 2 of S.I. 1994/2943 as from 13.4.95.

<sup>9</sup>Reg. 3(g) substituted by para. 3 of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

<sup>10</sup>Para. (h) added to reg. 3 by reg. 7 of S.I. 1999/2556 as from 4.10.99.

<sup>11</sup>Words omitted from reg. 3(h)(i) by reg. 5(a) of S.I. 2003/1589 as from 25.10.04.

<sup>12</sup>Words inserted and substituted in reg. 3(h) by reg. 11(2) of S.I. 2001/488 as from 9.4.01.

<sup>13</sup>Words inserted in reg. 3(h)(ii) by reg. 11(a) of S.I. 2008/1554 as from 27.7.08.

<sup>14</sup>Words omitted from reg. 3(h)(iii) by reg. 5(b) of S.I. 2003/1589 as from 25.10.04.

<sup>15</sup>Para. (i) inserted in reg. 3 by reg. 2(3) of S.I. 2005/1551 as from 6.7.05.

<sup>16</sup>Reg. 3(j) substituted and reg. 3(2) inserted by reg. 5(3) & (4) of S.I. 2015/437 as from 30.3.15.

(a) See s. 59B of the Social Security Act 1975 (c. 14) (the 1975 Act). s. 59B was inserted into the 1975 Act by s. 2(1) of the Social Security Act 1988 (c. 7). s. 2(1) comes into force on 10th April 1989 (see S.I. 1988/1857).

## Regs. 3-3A

“appellate authority” means the First-tier Tribunal, the Upper Tribunal, the Court of Appeal, the Court of Session or the Supreme Court; and

“relevant decision” means—

- (a) a decision that embodies the first determination by the Secretary of State that the claimant does not have limited capability for work; or
- (b) a decision that embodies the first determination by the Secretary of State that the claimant does not have limited capability for work since a previous determination by the Secretary of State or appellate authority that the claimant does have limited capability for work. ◀

*See Sch. 2, para. 18(a) & (b) of S.I. 2010/1907 at page 13.9426 & 13.9427 for details of modifications to this reg. in certain situations.*

<sup>1</sup>Reg. 3A inserted by reg. 2(3) of S.I. 2010/1794 as from 2.11.10.

►<sup>1</sup>**Notification that claim not required for entitlement to a Category A or B retirement pension**

**3A.**—(1) Subject to paragraph (4), this regulation applies to a beneficiary who has received, on or before the day provided for in paragraph (2), a written notification from the Secretary of State that no claim is required for a Category A or B retirement pension.

(2) The day referred to in paragraph (1) is—

- (a) the day which falls 2 weeks before the day on which the beneficiary reaches pensionable age; or
- (b) such later day as the Secretary of State may consider reasonable in any particular case or class of case.

(3) The Secretary of State may give a notification under paragraph (1) only in a case where, on the day which falls 8 weeks before the day on which the beneficiary reaches pensionable age, the beneficiary—

- (a) is in receipt of an exempt benefit, or would be in receipt of it but for that benefit not being payable as a result of the application of any of the legislation listed in paragraph (7); and
- (b) is neither entitled to, nor awaiting the determination of a claim for, a non-exempt benefit.

(4) Receipt of a written notification under paragraph (1) does not affect the requirement that a beneficiary who—

- (a) before reaching pensionable age, informs the Secretary of State that they want their entitlement to a Category A or B retirement pension to be deferred in accordance with section 55(3)(a) of the Contributions and Benefits Act(a); or
- (b) after reaching pensionable age, elects to be treated as not having become entitled to either a Category A or B retirement pension in accordance with regulation 2 of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations 1979(b),

must make a claim in order subsequently to be entitled to a Category A or B retirement pension.

(5) For the purposes of paragraph (3)(a), a beneficiary who is in receipt of an exempt benefit includes a beneficiary who—

- (a) has been awarded such a benefit on or before the day which falls 8 weeks before the day on which the beneficiary reaches pensionable age; and
- (b) has not yet received the first payment of that benefit.

(6) For the purposes of this regulation—

“exempt benefit” means any of the following—

- (a) an employment and support allowance;
- (b) income support;
- (c) a jobseeker’s allowance;
- (d) long-term incapacity benefit;

(a) 1992 c. 4. Section 55(3)(a) was amended by paragraph 7 of Schedule 1 to the Pensions Act 2007 (c. 22).

(b) S.I. 1979/642. Regulation 2 was amended by S.I. 1989/1642, 2005/453, 2005/1551 and 2009/2206.

(e) state pension credit; and  
“non-exempt benefit” means any of the following—

- (a) carer’s allowance;
- (b) short-term incapacity benefit;
- (c) severe disablement allowance;
- (d) widowed mother’s allowance;
- (e) widow’s pension.

(7) The legislation referred to in paragraph (3)(a) is—

- (a) section 19 of the Jobseekers Act(a)(circumstances in which a jobseeker’s allowance is not payable);
- (b) section 20A of that Act(b)(denial or reduction of joint-claim jobseeker’s allowance);
- (c) regulations made by virtue of any of the following provisions of the Jobseekers Act—
  - (i) section 8(2)(a)(c)(attendance, information and evidence);
  - (ii) section 17A(5)(d)(d)(schemes for assisting persons to obtain employment: “work for your benefit” schemes etc.);
  - (iii) paragraph 7(1)(a) of Schedule A1(e)(persons dependent on drugs etc.);
- ▶<sup>1</sup>(ca) any provision of the Social Security Fraud Act 2001(f) and regulations made by virtue of any such provision;◀
- (d) regulation 18 of the Social Security (Incapacity for Work) (General) Regulations 1995(g)(disqualification for misconduct etc.); and
- (e) regulation 157 of the Employment and Support Allowance Regulations (disqualification for misconduct etc.).◀

<sup>1</sup>Reg. 3A(7)(ca) inserted by reg. 2 of S.I. 2011/1554 as from 11.10.11.

### Making a claim for benefit

4.—(1) ▶<sup>2</sup>Subject to ▶<sup>3</sup>paragraphs (10) to (11B),◀ every◀ claim for benefit ▶<sup>4</sup>other than a claim for income support or jobseeker’s allowance◀ shall be made in writing on a form approved by the Secretary of State ▶<sup>5</sup>or the Board◀▶<sup>6</sup>for the purpose of the benefit for which the claim is made◀, or in such other manner, being in writing, as the Secretary of State ▶<sup>5</sup>or the Board◀ may accept as sufficient in the circumstances of any particular case.

<sup>2</sup>Words inserted in reg. 4(1) by reg. 2(2)(a) of S.I. 2005/34 as from 2.5.05.

<sup>3</sup>Words substituted in reg. 4(1) & 4(1A) by reg. 2(3)(a) & (b) of S.I. 2008/2667 as from 30.10.08.

<sup>4</sup>Words inserted in reg. 4(1) and paras (1A) to (1C) inserted, by reg. 2(2) and (3) of S.I. 1997/793 as from 6.10.97.

<sup>5</sup>Words inserted in reg. 4(1) by reg. 20 of S.I. 1999/2572 as from 5.10.99.

<sup>6</sup>Words inserted into reg. 4(1) by reg. 10 of S.I. 1992/247 as from 9.3.92.

<sup>7</sup>Words inserted in reg. 4(1B)(a) by reg. 2(3) of S.I. 2000/1982 as from 19.3.01.

▶<sup>4</sup>(1A) ▶<sup>3</sup>Subject to paragraph (11A), in the case of◀ a claim for income support or jobseeker’s allowance, the claim shall—

- (a) be made in writing on a form approved by the Secretary of State for the purpose of the benefit for which the claim is made;
- (b) unless any of the reasons specified in paragraph (1B) applies, be made in accordance with the instructions on the form; and
- (c) unless any of the reasons specified in paragraph (1B) applies, include such information and evidence as the form may require in connection with the claim.

(1B) The reasons referred to in paragraph (1A) are—

- (a) ▶<sup>7</sup>subject to paragraph (1BA),◀

(a) 1995 c. 18. Section 19 was amended by paragraph 67(1) and (2)(b) of Schedule 1 to the Employment Rights Act 1996 (c.18), paragraph 141 of Schedule 7 to the Social Security Act 1998 (c. 14) and paragraph 12 of Schedule 7 to the Welfare Reform and Pensions Act 1999 (c. 30).

(b) Section 20A was inserted by paragraph 13 of Schedule 7 to the Welfare Reform and Pensions Act 1999.

(c) Section 8 was amended by paragraph 7 of Schedule 7 and paragraph 29(3) of Schedule 8 to the Welfare Reform and Pensions Act 1999 and section 33 of the Welfare Reform Act 2009 (c. 24).

(d) Section 17A was inserted by section 1(1) and (2) of the Welfare Reform Act 2009.

(e) Schedule A1 was inserted by paragraph 2 of Schedule 3 to the Welfare Reform Act 2009.

(f) 2001 c. 11.

(g) S.I. 1995/311. Regulation 18 was amended by S.I. 1995/987, 1996/3207 and 1999/2422.

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- (i) the person making the claim is unable to complete the form in accordance with the instructions or to obtain the information or evidence it requires because he has a physical, learning, mental or communication difficulty; and
- (ii) it is not reasonably practicable for the claimant to obtain assistance from another person to complete the form or obtain the information or evidence; or
- (b) the information or evidence required by the form does not exist; or
- (c) the information or evidence required by the form can only be obtained at serious risk of physical or mental harm to the claimant, and it is not reasonably practicable for the claimant to obtain the information or evidence by other means; or
- (d) the information or evidence required by the form can only be obtained from a third party, and it is not reasonably practicable for the claimant to obtain such information or evidence from such third party; or
- (e) the Secretary of State is of the opinion that the person making the claim ►<sup>1</sup>or, in the case of a claim for a jobseeker's allowance by a joint-claim couple, either member of that couple,◀ has provided sufficient information or evidence to show that he is not entitled to the benefit for which the claim is made, and that it would be inappropriate to require the form to be completed or further information or evidence to be supplied.

<sup>1</sup>Words inserted in reg. 4(1B)(e) and para. (1BA) inserted by reg. 2(3) of S.I. 2000/1982 as from 19.3.01.

►<sup>1</sup>(1BA) In the case of a joint-claim couple claiming a jobseeker's allowance jointly, paragraph (1B)(a) shall not apply to the extent that it is reasonably practicable for a member of a joint-claim couple to whom that sub-paragraph applies to obtain assistance from the other member of that couple.◀

(1C) If a person making a claim is unable to complete the claim or supply the evidence or information it requires because one of the reasons specified in sub-paragraphs (a) to (d) of paragraph (1B) applies, he may so notify an appropriate office by whatever means.◀

<sup>2</sup>Reg. 4(1D) inserted by Sch. 5, para. 2 of S.I. 2000/897 as from 3.4.00.

►<sup>2</sup>(1D) In calculating any period of one month for the purposes of paragraph (7) and regulation 6(1A)(b), there shall be disregarded any period commencing on a day on which a person is first notified of a decision that he failed to take part in a work-focused interview and ending on a day on which he was notified that that decision has been revised so that the decision as revised is that he did take part.◀

<sup>3</sup>Para. (2) and (2A) substituted for para. (2) by reg. 4(a) of S.I. 1999/2572 as from 5.10.99.

►<sup>3</sup>(2) In the case of a claim for working families' tax credit, where a married or unmarried couple is included in the family, the claim shall be made by whichever partner they agree should so claim.

(2A) Where, in a case to which paragraph (2) applies, the partners are unable to agree which of them should make the claim, the Board may in their discretion determine that the claim shall be made by the partner who, on the information available to the Board at the time of their determination, is in their opinion mainly caring for the children.◀

<sup>4</sup>Words inserted in reg. 4(3) by reg. 7(b)(i) of S.I. 1996/2431 as from 15.10.96.

(3) ►<sup>4</sup>Subject to paragraph (3C),◀ in the case of ►<sup>5</sup>a 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.

<sup>5</sup>Words in reg. 4(3) & (3B)(a) substituted by para. 14(3) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

►<sup>6</sup>(3A) In the case of a married or unmarried couple where both partners satisfy the conditions set out in ►<sup>7</sup>section 129(1) of the Social Security Contributions and Benefits Act 1992(a)◀, a claim for ►<sup>7</sup>disabled person's tax credit◀ shall be made by whichever partner they agree should so claim, or in default of agreement, by such one of them as the ►<sup>7</sup>Board◀ shall determine.◀

<sup>6</sup>Reg. 4(3A) inserted by reg. 3 of S.I. 1991/2741 as from 10.3.92.

<sup>7</sup>Words substituted in reg. 4(3A) by regs. 4(b) 21 and 25 of S.I. 1999/2572 as from 5.10.99.

<sup>8</sup>Reg. 4(3B) inserted by reg. 2(4)(a) of S.I. 1996/1460 as from 7.10.96.

►<sup>8</sup>(3B) For the purposes of income-based jobseeker's allowance—

- (a) in the case of ►<sup>5</sup>a couple◀, a claim 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;

(a) 1992 c. 7.

- <sup>1</sup>(b) where there is no entitlement to contribution-based jobseeker's allowance on a claim made—
- (i) by a member of a joint-claim couple, he subsequently claims a joint-claim jobseeker's allowance with the other member of that couple, the claim made by the couple shall be treated as having been made on the date on which the member of that couple made the claim for a jobseeker's allowance in respect of which there was no entitlement to contribution-based jobseeker's allowance;
- (ii) by one partner and the other partner wishes to claim income-based jobseeker's allowance, the claim made by that other partner shall be treated as having been made on the date on which the first partner made his claim;◀
- (c) where entitlement to income-based jobseeker's allowance arises on the expiry of entitlement to contribution-based jobseeker's allowance consequent on a claim made by one partner and the other partner then makes a claim—
- (i) the claim of the first partner shall be terminated; and
- (ii) the claim of the second partner shall be treated as having been made on the day after the entitlement to contribution-based jobseeker's allowance expired.◀

<sup>1</sup>Reg. 4(3B)(b) substituted by reg. 2(3)(c) of S.I. 2000/1982 as from 19.3.01.

*Transitional arrangements indicated in S.I. 2000/636 reg. 12(1) provided that for the words "regulation 21ZB(2)" in reg. 4(3C) as substituted by that S.I., the words "regulation 21ZA(2)" shall still apply in certain circumstances.*

►<sup>2</sup>(3C) In the case of a claim for income support for a period to which ►<sup>3</sup>regulation 21ZB(2)◀ of the Income Support (General) Regulations 1987 (treatment of refugees)(a) refers, the claim shall be made by the refugee or in the case of ►<sup>4</sup>a couple◀ both of whom are refugees, by either of them.◀

<sup>2</sup>Reg. 4(3C) inserted by reg. 7(b)(ii) of S.I. 1996/2431 as from 15.10.96.

<sup>3</sup>Words substituted in reg. 4(3C) by reg. 5(2) of S.I. 2000/636 as from 3.4.00.

<sup>4</sup>In reg. 4, words substituted in paras. (3C) & (4) by para. 14(3) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>5</sup>Para. (5) substituted by reg. 2(4) of S.I. 1997/793 as from 7.4.97.

<sup>6</sup>Words inserted in reg. 4(5) & substituted in 4(6) by S.I. 2000/1982 as from 19.3.01.

<sup>7</sup>Words inserted in para. (5) by reg. 20 of S.I. 1999/2572 as from 5.10.99.

<sup>8</sup>Reg. 4(6) substituted by reg. 2(4)(b) of S.I. 1996/1460 as from 7.10.96.

<sup>9</sup>Words inserted in para (6) by reg 2(2)(a) of S.I. 2003/1632 as from 21.7.03.

<sup>10</sup>Words substituted in reg. 4(6)(a) by para. 2(4)(a) of Sch. 3 to S.I. 1999/3108 as from 29.11.99.

<sup>11</sup>Paras. (6A) - (6D) inserted by reg. 2(2)(b) of S.I. 2003/1632 as from 21.7.03.

<sup>12</sup>Words in para. (6A) substituted by reg. 6(2)(a)(i) of S.I. 2007/2911 as from 31.10.07.

<sup>13</sup>Words in reg. 4(6A)(a) (i) substituted by art. 10(4)(a) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

<sup>14</sup>Words in reg. 4(6A)(a) (ii) inserted by art. 9(4)(a) of S.I. 2015/1985 as from 6.4.16.

(4) Where one of ►<sup>4</sup>a 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.

►<sup>5</sup>(5) Where a person who wishes to make a claim for benefit and who has not been supplied with an approved form of claim notifies an appropriate office (by whatever means) of his intention to make a claim, he►<sup>6</sup>, or if he is a member of a joint-claim couple, either member of that couple◀ shall be supplied, without charge, with such form of claim by such person as the Secretary of State ►<sup>7</sup>or the Board◀ may appoint or authorise for that purpose.◀

►<sup>8</sup>(6) ►<sup>9</sup>Subject to paragraphs (6A) to (6D)◀ a person wishing to make a claim for benefit shall—

- (a) if it is a claim for a jobseeker's allowance, unless the ►<sup>10</sup>employment officer◀ otherwise directs, attend in person at an appropriate office or such other place, and at such time, as the ►<sup>9</sup>employment officer◀ may specify in his case in a ►<sup>6</sup>notification under regulation 23 or 23A◀ of the Jobseeker's Allowance Regulations;
- (b) if it is a claim for any other benefit, deliver or send the claim to an appropriate office.◀

►<sup>11</sup>(6A) ►<sup>12</sup>This paragraph applies to a person◀—

- (a) who has attained the qualifying age and makes a claim for—
- (i) an attendance allowance, ►<sup>13</sup>widowed parent's allowance◀, a carer's allowance, a disability living allowance or incapacity benefit; or
- (ii) a retirement pension of any category►<sup>14</sup>, a state pension under Part 1 of

(a) Reg. 21ZA was inserted by reg. 3 of S.I. 1996/2431.

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<sup>1</sup>Words inserted into regs. 4(6A)(a)(ii) and 4(6A)(b) by reg.

2(4)(a) of S.I. 2005/1551 as from 6.7.05.

<sup>2</sup>Words in reg. 4(6A)(b) inserted by art. 9(4)(b) of S.I. 2015/1985 as from 6.4.16.

<sup>3</sup>Words omitted in reg. 4(6A)(b) by reg. 2(3)(a) of S.I. 2006/832 as from 10.4.06.

<sup>4</sup>Reg. 4(6A)(c) & (d) & para. (6B)(b) substituted by reg. 6(2)(a)(ii) & (b) of S.I. 2007/2911 as from 31.10.07.

<sup>5</sup>Words substituted in reg. 4(6A)(d) by reg. 2(4)(a) of S.I. 2009/1490 as from 13.7.09.

<sup>6</sup>Words in reg. 4(6B)(b)(i) and (iv) revoked by Sch. 1 of S.I. 2013/458 as from 1.4.13.

<sup>7</sup>Sub-para. (cc) inserted by reg. 6(2)(c) of S.I. 2007/2911 as from 31.10.07.

<sup>8</sup>Para. (6CC) inserted by reg. 7(2) of S.I. 2005/337 as from 18.03.05.

the Pensions Act 2014<sup>1</sup> or a shared additional pension<sup>2</sup> for which a claim is required or a winter fuel payment for which a claim is required under regulation 3(1)(b) of the Social Fund Winter Fuel Payment Regulations 2000<sup>3</sup>;

(b) who has not yet attained the qualifying age and makes a claim for a retirement pension<sup>2</sup>, a state pension under Part 1 of the Pensions Act 2014<sup>1</sup> or a shared additional pension<sup>2</sup> in advance in accordance with regulation 15(1);<sup>3</sup>

<sup>4</sup>(c) who makes a claim for income support; or

(d) who has not attained the qualifying age and who makes a claim for a carer's allowance, disability living allowance<sup>5</sup>, incapacity benefit or an employment and support allowance.<sup>6</sup>

(6B) A person to whom paragraph (6A) applies may make a claim by sending or delivering it to, or by making it in person at—

(a) an office designated by the Secretary of State for accepting such claims; or

<sup>4</sup>(b) the offices of—

(i) a local authority administering housing benefit<sup>6</sup>;

(ii) a county council in England,

(iii) a person providing services to a person mentioned in head (i) or (ii),

(iv) a person authorised to exercise any function of a local authority relating to housing benefit<sup>6</sup>, or

(v) a person authorised to exercise any function a county council in England has under section 7A of the Social Security Administration Act 1992,

if the Secretary of State has arranged with the local authority, county council or other person for them to receive claims in accordance with this sub-paragraph.<sup>4</sup>

(6C) Where a person to whom paragraph (6A) applies makes a claim in accordance with paragraph (6B)(b), on receipt of the claim the local authority or other person specified in that sub-paragraph—

(a) shall forward the claim to the Secretary of State as soon as reasonably practicable;

(b) may receive information or evidence relating to the claim supplied by—

(i) the person making, or who has made, the claim; or

(ii) other persons in connection with the claim, and shall forward it to the Secretary of State as soon as reasonably practicable;

(c) may obtain information or evidence relating to the claim from the person who has made the claim, but not any medical information or evidence except for that which the claimant must provide in accordance with instructions on the form, and shall forward the information or evidence to the Secretary of State as soon as reasonably practicable;

<sup>7</sup>(cc) may verify any non-medical information or evidence supplied or obtained in accordance with sub-paragraph (b) or (c) and shall forward it to the Secretary of State as soon as reasonably practicable.<sup>4</sup>

(d) may record information or evidence relating to the claim supplied or obtained in accordance with sub-paragraphs (b) or (c) and may hold the information or evidence (whether as supplied or obtained or as recorded) for the purpose of forwarding it to the Secretary of State; and

(e) may give information and advice with respect to the claim to the person who makes, or who has made, the claim.

<sup>8</sup>(6CC) Paragraphs (6C)(b) to (e) apply in respect of information, evidence and advice relating to any claim by a person to whom paragraph (6A) applies, whether the claim is made in accordance with paragraph (6B)(b) or otherwise.<sup>4</sup>

(6D) The benefits specified in paragraph (6A) are relevant benefits for the purposes of section 7A of the Social Security Administration Act 1992<sup>(b)</sup>.<sup>4</sup>

(a) S.I. 2000/729.

(b) Section 7A was inserted by the Welfare Reform and Pensions Act 1999 (c. 30), section 71.

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►<sup>1</sup>(7) If a claim, other than a claim for income support or jobseeker's allowance, is defective at the date it is received in an appropriate office or office specified in paragraph (6B) where that paragraph applies—

- (a) the Secretary of State shall advise the claimant of the defect; and
- (b) if a properly completed claim is received within one month, or such longer period as the Secretary of State may consider reasonable, from the date on which the claimant is ►<sup>2</sup>first◀ advised of the defect, the Secretary of State shall treat the claim as properly made in the first instance.

(7ZA) If a claim, other than a claim for income support or jobseeker's allowance, has been made in writing but not on the form approved for the time being—

- (a) the Secretary of State may supply the claimant with the approved form; and
- (b) 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 the claimant is supplied with the approved form, the Secretary of State shall treat the claim as properly made in the first instance.◀

►<sup>3</sup>(7A) In the case of a claim for income support, if a defective claim is received, the Secretary of State shall advise the person making the claim of the defect and of the relevant provisions of regulation 6(1A) relating to the date of claim.

(7B) In the case of a claim for a jobseeker's allowance, if a defective claim is received, the Secretary of State shall advise—

- (a) in the case of a claim made by a joint-claim couple, each member of the couple of the defect and of the relevant provisions of regulation 6(4ZA) relating to the date of the claim;
- (b) in any other case, the person making the claim of the defect and the relevant provisions of regulation 6(4A) relating to the date of claim.◀

►<sup>4</sup>(8) A claim, other than a claim for income support or jobseeker's allowance, which is made on the form approved for the time being is, for the purposes of these Regulations, properly completed if completed in accordance with the instructions on the form and defective if not so completed.

►<sup>5</sup>(8A) Where—

- (a) the Board determine under paragraph (2A) that a claim for working families' tax credit shall be made by the partner who in their opinion is mainly caring for the children,
- (b) a claim for working families' tax credit is made by that partner on the form approved for the time being, and
- (c) the claim is not completed in accordance with the instructions on the form by reason only that, in consequence of the other partner not agreeing which of them should make the claim, it has not been signed by the other partner,

the Board may in their discretion treat that claim as completed in accordance with the instructions on the form for the purposes of paragraph (8), notwithstanding that it has not been signed by the other partner in accordance with those instructions.◀

(9) In the case of a claim for income support or jobseeker's allowance, a properly completed claim is a claim which meets the requirements of paragraph (1A) and a defective claim is a claim which does not meet those requirements.◀

►<sup>6</sup>(10) This regulation shall not apply to a claim for state pension credit►<sup>7</sup>, subject to regulation 6(1G),◀►<sup>8</sup>or an employment and support allowance.◀◀

►<sup>9</sup>►<sup>10</sup>(11) A claim for the following benefits may<sup>6</sup> be made by telephone call to a telephone number specified by the Secretary of State for the purpose of the benefit for which the claim is made, unless the Secretary of State directs, in any particular case, that the claim must be made in writing—

- (a) graduated retirement benefit;
- (b) a shared additional pension;
- (c) a retirement pension;
- (d) a state pension under Part of the Pensions Act 2014(a);

(a) 2014 c. 19.

<sup>1</sup>Para. (7) substituted & para. (7ZA) inserted in reg. 4 by reg. 2(4)(b) of S.I. 2009/1490 as from 13.7.09.

<sup>2</sup>Word inserted in reg. 4(7)(b) by reg. 3(2) of S.I. 2009/2655 as from 26.10.09.

<sup>3</sup>Para. (7A) substituted and para. (7B) inserted by reg. 2(3)(f) of S.I. 2000/1982 as from 19.3.01.

<sup>4</sup>Para. (8) substituted and para. (9) inserted by reg. 2(7) of S.I. 1997/793 as from 6.10.97.

<sup>5</sup>Para. (8A) inserted by reg. 4(c) of S.I. 1999/2572 as from 5.10.99.

<sup>6</sup>Sub-para. (10) inserted by reg. 4(1) of S.I. 2002/3019 as from 6.10.03.

<sup>7</sup>Words inserted in reg. 4(10) by reg. 2(c) of S.I. 2009/1490 as from 13.7.09.

<sup>8</sup>Words inserted in reg. 4(10) by S.I. 2008/1554 as from 27.7.08.

<sup>9</sup>Sub-para. (11)-(14) inserted by reg. 2(2)(b) of S.I. 2005/34 as from 2.5.05.

<sup>10</sup>Reg. 4(11) substituted by reg. 2(2) of S.I. 2016/544 as from 15.6.16.

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<sup>1</sup>Para. 11(e) substituted by art. 10(4)(b) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

<sup>2</sup>Paras. (11A) & (11B) inserted by reg. 2(3)(c) & (d) of S.I. 2008/2667 as from 30.10.08.

<sup>3</sup>Words in reg. 4(11A) & reg. 4(12) & (13) substituted by regs. 2(c)-(f) of S.I. 2009/1490 as from 13.7.09.

<sup>4</sup>Words in reg. 4(14) omitted by regs. 2(g) of S.I. 2009/1490 as from 13.7.09.

<sup>5</sup>Regs. 4A & 4B inserted by reg. 5 of S.I. 1999/3108 as from 29.11.99.

<sup>6</sup>Words inserted in reg. 4A(1) by reg. 17(1) of S.I. 2000/897 as from 3.4.00.

<sup>7</sup>Words substituted in reg. 4A(2)(d) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

- ▶<sup>1</sup>(e) widowed parent's allowance;
- (ea) bereavement support payment◀;
- (f) a social fund payment for funeral expenses or winter fuel payment;
- (g) industrial injuries benefit(a);

▶<sup>2</sup>(11A) A claim for income support or jobseeker's allowance may be made by telephone call to the telephone number specified by the Secretary of State where such a claim falls within a category of case▶<sup>3</sup>, for which the Secretary of State accepts telephone claims, or in any other case where the Secretary of State is willing to do so.◀

(11B) Paragraph (11A) shall apply unless in any particular case the Secretary of State directs that the claim must be made in writing.◀

▶<sup>3</sup>(12) A claim made by telephone in accordance with paragraph (11) or (11A) is properly completed if the Secretary of State is provided with all the information required to determine the claim and the claim is defective if not so completed.◀

- ▶<sup>3</sup>(13) Where a claim made by telephone is defective—
  - (a) in the case of a claim other than a claim for income support or jobseeker's allowance, paragraph (7) applies;
  - (b) in the case of a claim for income support, paragraph (7A) applies; and
  - (c) in the case of a claim for jobseeker's allowance, paragraph (7B) applies,

except that references to a defective claim being received or received in an appropriate office or office specified in paragraph (6B) where that paragraph applies are to be read as references to a defective claim being made by telephone and the reference in paragraph (7)(b) to a properly completed claim being received is to be read as a reference to a claim made by telephone being properly completed.◀

(14) ▶<sup>4</sup>◀◀

▶<sup>5</sup>Further provisions as to claims

**4A.**—(1) Where a claimant resides in both—

- (a) the area of a local authority specified in Part I or II of Schedule 1 to the Social Security (Claims and Information) Regulations 1999(b); and
- (b) a postcode district identified in Part I or II of Schedule 2 to the Social Security (Claims and Information) Regulations 1999,

any claim for a benefit to which paragraph (2) applies may be made to any office ▶<sup>6</sup>of a relevant authority◀ displaying the **one** logo(c) (whether or not that office is situated within the area of the local authority in which the claimant resides).

(2) The benefits to which this paragraph applies are—

- (a) a jobseeker's allowance;
- (b) income support;
- (c) incapacity benefit;
- (d) ▶<sup>7</sup>carer's allowance◀;
- (e) severe disablement allowance;
- (f) widow's benefit;
- (g) bereavement benefits;
- (h) disability living allowance.

(3) A claim made in accordance with paragraph (1), other than a claim for income support or a jobseeker's allowance, shall be made in writing on a form approved by the Secretary of State for the purpose of the benefit to which the claim is made, or in such

(a) Section 5(2)(a) of the Social Security Administration Act 1992 provides that section 5 of that Act applies in relation to benefits defined in section 122 of the Social Security Contributions and Benefits Act 1992 (c. 4). Section 122 of the Social Security Contributions and Benefits Act 1992 gives a definition of "benefit" which includes benefits under Part V of that Act and "industrial injuries benefit" is also defined in that section.

(b) S.I. 1999/3108.

(c) Offices displaying the **one** logo are identified in a list entitled "**one** site - a complete list" available from the DSS, WtW1, 2nd Floor, Adelphi, London WC2N 6HT.



other manner, being in writing, as the person to whom the claim is made may accept as sufficient in the circumstances of the particular case.

(4) In the case of a claim for income support or a jobseeker's allowance, the provisions of regulation 4(1A) to (1C)(a) shall apply.

(5) In its application to the area of any authority specified in Part I or II of Schedule 1 to the Social Security (Claims and Information) Regulations 1999, the "appropriate office" in these Regulations includes also an office of an authority or person to whom claims may be made in accordance with paragraph (1).

(6) In these Regulations, a "participating authority" means any local authority or person to whom claims may be made in accordance with paragraph (1).

### Forwarding claims and information

**4B.**—(1) A participating authority may—

- (a) record information or evidence relating to any social security matter supplied by or obtained from a person at an office displaying the **one** logo, whether or not the information or evidence is supplied or obtained in connection with the making of a claim for benefit;
- (b) give information or advice with respect to any social security matter to persons who are making, or have made, claims for any benefit to which regulation 4A(2) applies <sup>1</sup>or for state pension credit. ◀

(2) A participating authority shall forward to the Secretary of State—

- (a) any claim for benefit, other than a claim for housing benefit <sup>2</sup>◀, together with any information or evidence supplied to the authority in connection with that claim; and
- (b) any information or evidence relating to any other social security matter, except where the information or evidence relates solely to housing benefit <sup>2</sup>◀ given to the authority by a person making a claim for, or who has claimed, a benefit to which regulation 4A(2) applies. ◀

<sup>1</sup>Words inserted in reg. 4B(1)(b) by reg. 4(2) of S.I. 2002/3019 as from 6.10.03.

<sup>2</sup>Words in reg. 4B(2)(a) and (b) revoked by Sch. 1 of S.I. 2013/458 as from 1.4.13.

### <sup>3</sup>Electronic claims for benefit

**4ZC.**—(1) Any claim for benefit in relation to which this regulation applies, and any certificate, notice, information or evidence given in connection with that claim, may be made or given by means of an electronic communication, in accordance with the provisions set out in Schedule 9ZC. ◀

<sup>4</sup>(2) This regulation applies to the following benefits—

- (a) carer's allowance;
- (b) attendance allowance;
- <sup>5</sup>(ba) bereavement support payment; ◀
- (c) disability living allowance;
- (d) graduated retirement benefit;
- (e) a jobseeker's allowance;
- (f) retirement pension;
- (g) state pension under Part 1 of the Pensions Act 2014;
- (h) shared additional pension;
- (i) industrial injuries benefit;
- (j) an employment and support allowance. ◀

<sup>3</sup>Reg. 4ZC inserted by reg. 2(2) of S.I. 2003/2800 as from 1.12.03.

<sup>4</sup>Reg. 4ZC(2) substituted by reg. 2(3) of S.I. 2016/544 as from 15.6.16.

<sup>5</sup>Reg. 4ZC(2)(ba) inserted by art. 10(5) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

### Electronic claims for benefit

<sup>6</sup>**4C.**—(1) Any claim for benefit in relation to which this regulation applies, and any certificate, notice, information or evidence given in connection with that claim, may be made or given by means of an electronic communication, in accordance with the provisions set out in Schedule 9C.

(2) The regulation applies in relation to child benefit. ◀

<sup>6</sup>Sub-para 4C inserted by reg. 3 of S.I. 2002/1789 as from 28.10.02.

(a) Paras. (1A) to (1C) were inserted by S.I. 1997/793.

**Reg. 4D**

<sup>1</sup>Regs. 4D, 4E & 4F inserted by reg. 4 of S.I. 2002/3019 as from 6.10.03.

<sup>2</sup>Words in reg. 4D(3) omitted by reg. 3(2)(a) of S.I. 2006/832 as from 24.7.06.

<sup>3</sup>Words in reg. 4D(3) omitted, paras. (3A) & (5A) inserted & para. (5) substituted by reg. 7(3)(a)-(d) of S.I. 2005/337 as from 18.03.05.

<sup>4</sup>Para. (4) substituted by reg. 6(3)(a) of S.I. 2007/2911 as from 31.10.07.

<sup>5</sup>Words in reg. 4D(4)(a) and (d) revoked by Sch. 1 of S.I. 2013/458 as from 1.4.13.

<sup>6</sup>Para. (5)(cc) inserted by reg. 6(3)(b) of S.I. 2007/2911 as from 31.10.07.

<sup>7</sup>Words in reg. 4D(6) omitted and paras. (6A) to (6E) inserted by reg. 3(2)(b) & (c) of S.I. 2006/832 as from 24.7.06.

**►<sup>1</sup>Making a claim for state pension credit**

**4D.—(1)** A claim for state pension credit need only be made in writing if the Secretary of State so directs in any particular case.

(2) A claim is made in writing either—

- (a) by completing and returning in accordance with the instructions printed on it a form approved or provided by the Secretary of State for the purpose; or
- (b) in such other written form as the Secretary of State accepts as sufficient in the circumstances of the case.

(3) A claim for state pension credit may be made in writing whether or not a direction is issued under paragraph (1) and may also be made ►<sup>2</sup>◄ in person at, an appropriate office ►<sup>2</sup>◄.

►<sup>3</sup>(3A) A claim made in writing may also be made at an office designated by the Secretary of State for accepting claims for state pension credit ◄

►<sup>4</sup>(4) A claim made in writing may also be made at the offices of—

- (a) a local authority administering housing benefit ►<sup>4</sup>◄;
- (b) a county council in England;
- (c) a person providing services to a person mentioned in sub-paragraph (a) or (b);
- (d) a person authorised to exercise any functions of a local authority relating to housing benefit ►<sup>4</sup>◄; or
- (e) a person authorised to exercise any function a county council in England has under section 7A of the Social Security Administration Act 1992.

if the Secretary of State has arranged with the local authority, county council or other or person for them to receive claims in accordance with this paragraph. ◄

►<sup>3</sup>(5) Where a claim is made in accordance with paragraph (4), the local authority or other specified person—

- (a) shall forward the claim to the Secretary of State as soon as reasonably practicable;
- (b) may receive information or evidence relating to the claim supplied by the person making, or who has made, the claim or another person, and shall forward it to the Secretary of State as soon as reasonably practicable;
- (c) may obtain information or evidence relating to the claim from the person who has made the claim and shall forward it to the Secretary of State as soon as reasonably practicable;

►<sup>6</sup>(cc) may verify any non-medical information or evidence supplied or obtained in accordance with sub-paragraph (b) or (c) and shall forward it to the Secretary of State as soon as reasonably practicable; ◄

- (d) may record information or evidence relating to the claim supplied or obtained in accordance with sub-paragraph (b) or (c) and may hold the information or evidence (whether as supplied or obtained or as recorded) for the purpose of forwarding it to the Secretary of State; and
- (e) may give information and advice with respect to the claim to the person who makes, or has made, the claim.

(5A) Paragraph (5)(b) or (e) applies in respect of information, evidence and advice relating to any claim for state pension credit, whether it is made in accordance with paragraph (4) or otherwise. ◄

(6) A claim for state pension credit made in person ►<sup>7</sup>◄ is not a valid claim unless a written statement of the claimant's circumstances, provided for the purpose by the Secretary of State, is approved by the person making the claim.

►<sup>7</sup>(6A) A claim for state pension credit may be made by telephone call to the telephone number specified by the Secretary of State.

(6B) Where the Secretary of State, in any particular case, directs that the person making the claim approves a written statement of his circumstances, provided for the purpose by the Secretary of State, a claim made by telephone is not a valid claim unless the person complies with the direction.

(6C) A claim made by telephone in accordance with paragraph (6A) is defective unless the Secretary of State is provided, during that telephone call, with all the information he requires to determine the claim.

(6D) Where a claim made by telephone in accordance with paragraph (6A) is defective, the Secretary of State is to provide the person making it with an opportunity to correct the defect.

(6E) If the person corrects the defect within one month, or such longer period as the Secretary of State considers reasonable, of the date the Secretary of State <sup>1</sup>first drew attention to the defect, the Secretary of State shall treat the claim as if it had been duly made in the first instance.

<sup>1</sup>Word substituted in regs. 4D(6E) & (11) by reg. 3(3)(a) of S.I. 2009/2655 as from 26.10.09.

(7) A <sup>2</sup>couple may agree between them as to which partner is to make a claim for state pension credit, but in the absence of an agreement, the Secretary of State shall decide which of them is to make the claim.

<sup>2</sup>Words substituted in reg. 4D(7) & (8) by para. 14(4) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

(8) Where one member of a <sup>2</sup>couple (“the former claimant”) is entitled to state pension credit under an award but a claim for state pension credit is made by the other member of the couple, then, if both members of the couple confirm in writing that they wish the claimant to be the other member, the former claimant’s entitlement shall terminate on the last day of the benefit week specified in paragraph (9).

(9) That benefit week is the benefit week of the former claimant which includes the day immediately preceding the day the partner’s claim is actually made or, if earlier, is treated as made.

(10) If a claim for state pension credit is defective when first received, the Secretary of State is to provide the person making it with an opportunity to correct the defect.

(11) If that person corrects the defect so that the claim then satisfies the requirements of paragraph (2) and does so within 1 month<sup>3</sup>, or such longer period as the Secretary of State considers reasonable, of the date the Secretary of State <sup>1</sup>first drew attention to the defect, the claim shall be treated as having been properly made on the date—

<sup>3</sup>Words added to reg. 4D(11) by reg. 2(2) of S.I. 2006/2377 as from 2.10.06.

- (a) the defective claim was first received by the Secretary of State or the person acting on his behalf; or
- (b) if regulation 4F(3) applies, the person informed an appropriate office of his intention to claim state pension credit.

(12) <sup>4</sup>Paragraphs (6E) and (11) do not apply in a case to which regulation 4E(3) applies.

<sup>4</sup>Words substituted in reg. 4D(12) by reg. 3(2)(d) of S.I. 2006/832 as from 24.7.06.

(13) State pension credit is a relevant benefit for the purposes of section 7A of the Social Security Administration Act 1992(a).

### Making a claim before attaining the qualifying age

**4E.—**(1) A claim for state pension credit may be made, and any claim made may be determined, at any time within the advance period.

(2) The advance period begins on the date which falls 4 months before the day on which the claimant attains the qualifying age and ends on the day before he attains that age.

(3) A person who makes a claim within the advance period which is defective may correct the defect at any time before the end of the advance period.

### Making a claim after attaining the qualifying age: date of claim

**4F.—**(1) This regulation applies in the case of a person who claims state pension credit on or after attaining the qualifying age.

(2) The date on which a claim is made shall, subject to paragraph (3), be—

- (a) where the claim is made in writing and is not defective, the date on which the claim is first received—
  - (i) by the Secretary of State or the person acting on his behalf; or
  - (ii) in a case to which regulation 4D(4) relates, in the office of a person specified therein;

(a) S. 7A was inserted by the Welfare Reform and Pensions Act 1999 (c. 30), s. 71.

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<sup>1</sup>Words substituted in reg. 4F(2)(b) by reg. 3(3)(b) of S.I. 2006/832 as from 24.7.06.

(b) where the claim is not made in writing but is otherwise made in accordance with regulation 4D(3) ►<sup>1</sup>or (6A)◄ and is not defective, the date the claimant provides details of his circumstances by telephone to, or in person at, the appropriate office or other office designated by the Secretary of State to accept claims for state pension credit; or

(c) where a claim is initially defective but the defect is corrected under regulation ►<sup>1</sup>4D (6E) or (11)◄, the date the claim is treated as having been made under that regulation.

<sup>2</sup>Words in reg 4F(3) substituted and inserted in sub-para. (a) by reg. 8 of S.I. 2004/2327 as from 6.10.04.

<sup>3</sup>Words inserted & substituted in reg. 4F(3) by reg. 2(4)(a)-(b) of S.I. 2003/1632 as from 21.7.03.

(3) If a ►<sup>2</sup>person wishing to make a claim◄—

(a) informs ►<sup>2</sup>(by whatever means)◄ an appropriate office►<sup>3</sup>, or other office designated by the Secretary of State for accepting claims for state pension credit or the office of a person specified in regulation 4D(4),◄ of his intention to claim state pension credit; and

(b) subsequently makes the claim in accordance with regulation 4D within 1 month of complying with sub-paragraph (a), or within such longer period as the Secretary of State may allow,

the claim may, where in the circumstances of the particular case it is appropriate to do so, be treated as made on the day the claimant first informed ►<sup>3</sup>an office specified in sub-paragraph (a)◄ of his intention to claim the credit.◄

<sup>4</sup>Regs. 4G, 4H & 4I inserted by reg. 13 of S.I. 2008/1554 as from 27.7.08.

**►<sup>4</sup>Making a claim for employment and support allowance by telephone**

**4G.**—(1) A claim ("a telephone claim") for an employment and support allowance may be made by telephone call to the telephone number specified by the Secretary of State.

(2) Where the Secretary of State, in any particular case, directs that the person making the claim approves a written statement of his circumstances, provided for the purpose by the Secretary of State, a telephone claim is not a valid claim unless the person complies with the direction.

(3) A telephone claim is defective unless the Secretary of State is provided, during that telephone call, with all the information he requires to determine the claim.

(4) Where a telephone claim is defective, the Secretary of State is to advise the person making it of the defect and of the relevant provisions of regulation 6(1F) relating to the date of claim.

(5) If the person corrects the defect within one month, or such longer period as the Secretary of State considers reasonable, of the date the Secretary of State ►<sup>5</sup>first◄ drew attention to the defect, the Secretary of State must treat the claim as if it had been properly made in the first instance.

<sup>5</sup>Words substituted in reg. 4G(5) by reg. 3(3)(b) of S.I. 2009/2655 as from 26.10.09.

**Making a claim for employment and support allowance in writing**

**4H.**—(1) A claim ("a written claim") for employment and support allowance need only be made in writing if the Secretary of State so directs in any particular case but a written claim may be made whether or not a direction is issued.

(2) A written claim must be made on a form approved for the purpose by the Secretary of State and be made in accordance with the instructions on the form.

(3) A claim in writing may also be made at the offices of—

(a) a local authority administering housing benefit ►<sup>6</sup>◄;

(b) a person providing to such an authority services relating to housing benefit ►<sup>6</sup>◄; or

(c) a person authorised to exercise the function of a local authority relating to housing benefit ►<sup>6</sup>◄,

<sup>6</sup>Words in reg. 4H(3)(a), (b) & (c) revoked by Sch. 1 of S.I. 2013/458 as from 1.4.13.

if the Secretary of State has arranged with the local authority or person specified in sub-paragraph (b) or (c) for them to receive claims in accordance with this paragraph.

(4) Where a written claim is made in accordance with paragraph (3), on receipt of that claim the local authority or other person specified in that paragraph—

(a) must forward the claim to the Secretary of State as soon as reasonably practicable;

- (b) may receive information or evidence relating to the claim supplied by–
  - (i) the person making, or who has made, the claim; or
  - (ii) other persons in connection with the claim,
 and shall forward it to the Secretary of State as soon as reasonably practicable;
- (c) may obtain information or evidence relating to the claim from the person who has made the claim, but not any medical information or evidence except for that which the claimant must provide in accordance with instructions on the form, and must forward the information or evidence to the Secretary of State as soon as reasonably practicable;
- (d) may record information or evidence relating to the claim supplied or obtained in accordance with sub-paragraph (b) or (c) and may hold the information or evidence (whether as supplied or obtained or as recorded) for the purpose of forwarding it to the Secretary of State; and
- (e) may give information and advice with respect to the claim to the person who makes, or who has made, the claim.

(5) Paragraphs (4)(b) to (e) apply in respect of information, evidence and advice relating to any claim whether the claim is made in accordance with paragraph (3) or otherwise.

(6) If a written claim is defective when first received, the Secretary of State is to advise the person making it of the defect and of the provisions of regulation 6(1F) relating to the date of claim.

(7) If that person corrects the defect so that the claim then satisfies the requirements of paragraph (2) and does so within one month, or such longer period as the Secretary of State considers reasonable, of the date the Secretary of State ►<sup>1</sup>first◄ drew attention to the defect, the claim must be treated as having been properly made in the first instance.

<sup>1</sup>Word substituted in reg. 4H(7) by reg. 3(3)(c) of S.I. 2009/2655 as from 26.10.09.

#### Claims for employment and support allowance: supplemental

**4I.**—(1) Where a person who is a member of a couple may be entitled to an income-related employment and support allowance the claim for an employment and support allowance must be made by whichever member of the couple they agree should claim or, in default of agreement, by such one of them as the Secretary of State may choose.

(2) Where one member of a couple (“the former claimant”) is entitled to an income-related employment and support allowance under an award but a claim for an employment and support allowance is made by the other member of the couple and the Secretary of State considers that the other member is entitled to an income-related employment and support allowance, then, if both members of the couple confirm in writing that they wish the claimant to be the other member, the former claimant’s entitlement terminates on the day the partner’s claim is actually made or, if earlier, is treated as made.

(3) In calculating any period of one month for the purposes of regulations 4G and 4H, any period commencing on a day on which a person is first notified of a decision in connection with his failure to take part in a work-focused interview and ending on a day on which he was notified that that decision has been revised so that the decision as revised is that he did take part is to be disregarded.

(4) Employment and support allowance is a relevant benefit for the purposes of section 7A of the 1992 Act.◄

#### Amendment and withdrawal of claim

►<sup>2</sup>**5.**—(1) A person who has made a claim for benefit may amend it at any time before a determination has been made on the claim by notice in writing received at an appropriate office, by telephone call to a telephone number specified by the Secretary of State or in such other manner as the Secretary of State may decide or accept.

<sup>2</sup>Reg. 5(1) substituted by reg. 5(2) of S.I. 2013/2536 as from 29.10.13.

(1A) Any claim amended in accordance with paragraph (1) 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.

**Reg. 6**

<sup>1</sup>Words in reg. 6(1) substituted by reg. 2(2) of S.I. 1990/725 as from 9.4.90.

<sup>2</sup>Words inserted in reg. 6(1) by Sch. 5, para. 3 of S.I. 2000/897 as from 3.4.00.

<sup>3</sup>Reg. 6(1)(aa) inserted by reg. 3(2) of S.I. 1997/793 as from 6.4.97.

<sup>4</sup>For tax credit purposes only, words omitted in reg. 6, by reg. 3 of S.I. 2001/567 as from 10.4.01.

<sup>5</sup>Words in reg. 6(1)(b), (c) & (d) substituted & inserted in (1A)(a) & (b) by reg. 2(6)(a)-(d) of S.I. 2009/1460 as from 13.7.09.

<sup>6</sup>Sub-paras. (c) & (d) inserted in reg. 6(1) by reg. 2(4) of S.I. 2005/34 as from 2.5.05.

<sup>7</sup>Words substituted in reg. 6(1)(c) by reg. 2(4)(a) of S.I. 2008/2667 as from 30.10.08.

<sup>8</sup>Para. (1ZA) inserted by reg. 2(5) of S.I. 2003/1632 as from 21.7.03.

<sup>9</sup>Para. (1A) inserted by reg. 3(3) of S.I. 1997/793 as from 6.10.97.

<sup>10</sup>Paras. (1B) and (1C) inserted in reg. 6 by reg. 3 of S.I. 2001/567 as from 10.4.01.

**Date of claim**

**6.—(1)** <sup>1</sup>Subject to the following provisions of this regulation, <sup>2</sup>or regulation 6A (claims by persons subject to work-focused interviews) <sup>3</sup>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;

<sup>3</sup>(aa) in the case of a claim for—

<sup>4</sup>

<sup>4</sup>

jobseeker's allowance if first notification is received before 6th October 1997; or

income support if first notification is received before 6th October 1997;

which meets the requirements of regulation 4(1) and which is received in an appropriate office within one month of first notification in accordance with regulation 4(5), whichever is the later of—

(i) the date on which that notification is received; and

(ii) the first date on which that claim could have been made in accordance with these Regulations; <sup>4</sup>

(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 <sup>5</sup>properly <sup>6</sup>made, the date on which the claim was received in an appropriate office in the first instance.

<sup>6</sup>(c) in the case of a claim made by telephone in accordance with <sup>7</sup>regulation 4(11) or (11A) <sup>8</sup>, the date <sup>5</sup>the claim is properly completed <sup>4</sup>;

(d) in the case of a claim made by telephone which is defective but which is treated, under regulation <sup>5</sup>4(13)(a) as having been properly <sup>4</sup> made, the date of that telephone call. <sup>4</sup>

<sup>8</sup>(1ZA) In the case of a claim made in accordance with regulation 4(6B)—

(a) paragraph (1) shall apply in relation to a claim received at an office specified in that regulation as it applies in relation to a claim received at an appropriate office; and

(b) paragraph (1A) shall apply in relation to an office specified in that regulation as it applies in relation to an appropriate office. <sup>4</sup>

<sup>9</sup>(1A) In the case of a claim for income support—

(a) subject to the following sub-paragraphs, the date on which a claim is made shall be the date on which a properly completed claim is received in an appropriate office <sup>5</sup>or a claim made by telephone is properly completed <sup>4</sup> or the first day in respect of which the claim is made if later;

(b) where a properly completed claim is received in an appropriate office <sup>5</sup>or a claim made by telephone is properly completed <sup>4</sup> within one month of first notification of intention to make that claim, the date of claim shall be the date on which that notification is <sup>5</sup>made or is <sup>4</sup> deemed to be made or the first day in respect of which the claim is made if later;

(c) a notification of intention to make a claim will be deemed to be made on the date when an appropriate office receives—

(i) a notification in accordance with regulation 4(5); or

(ii) a defective claim. <sup>4</sup>

<sup>10</sup>(1B) Subject to paragraph (1C), in the case of a claim for working families' tax credit or disabled person's tax credit which meets the requirements of regulation 4(1) and which is received in an appropriate office within one month of first notification in accordance with regulation 4(5)—

(a) where the claimant is entitled to that credit on the date on which that notification is received ("the notification date") and the first day of the period in respect of which that claim is made is on or before the notification date, the date on which a claim is made shall be the notification date; or

(b) where the claimant is not entitled to that credit on the notification date but becomes so entitled before the date on which the claim is received, the date on which the claim is received, the date on which a claim is made shall be—

- (i) the date on which the claimant becomes so entitled, or
- (ii) if later, the first day of the period in respect of which the claim is made provided that it is not later than the date on which the claim is received.

(1C) Paragraph (1B) shall not apply in the case of a claim which is received in an appropriate office—

- (a) in the case of working families' tax credit, within the period specified opposite that credit at paragraphs (a) or (aa) in column (2) of Schedule 4(a); or
- (b) in the case of disabled person's tax credit, within the period specified opposite that credit in paragraphs (a) or (b) in column (2) of Schedule 4.

►<sup>1</sup>unless the previous award of working families' tax credit or disabled person's tax credit was terminated by virtue of regulation 49ZA of the Family Credit (General) Regulations 1987 or regulation 54A of the Disability Working Allowance (General) Regulations 1991.◄◄

<sup>1</sup>Words inserted in reg. 6 (1C) by reg. 20 of S.I. 2001/892 as from 10.4.01.

►<sup>2</sup>(1D) Subject to paragraph (1E) and without prejudice to the generality of paragraph (1), where a properly completed claim for incapacity benefit is received in an appropriate office within one month of the claimant first notifying such an office, by whatever means, of his intention to make that claim, the date of claim shall be the date on which that notification is made or the first day in respect of which the claim is made if later.

<sup>2</sup>Para. (1D) & (1E) inserted in reg. 6 by reg. 2(4)(a) of S.I. 2006/832 as from 10.4.06.

(1E) For the purposes of paragraph (1D), a person ►<sup>3</sup>◄ may notify his intention and may send or deliver his claim to an office specified in regulation 4(6B)(b).◄

<sup>3</sup>Words omitted in reg. 6(1E) by reg. 6(4) of S.I. 2007/2911 as from 31.10.07.

►<sup>4</sup>(1F) In the case of a claim for an employment and support allowance, the date on which the claim is made or treated as made shall be the first date on which—

<sup>4</sup>Para. (1F) inserted in reg. 6 by reg. 2(6)(e) of S.I. 2009/1490 as from 13.7.09.

- (a) a claim made by telephone is properly completed, or a properly completed claim is received in an appropriate office, or office mentioned in regulation 4H(3);
- (b) a defective claim is received or made but is treated as properly made in the first instance in accordance with regulation 4G(5) in the case of a telephone claim, or 4H(7) in the case of a written claim; or
- (c) the Secretary of State is notified of an intention to claim and within one month or such longer period as the Secretary of State considers reasonable of first notification, a claim made by telephone is properly completed, or a properly completed claim is received in an appropriate office, or office mentioned in regulation 4H(3),

or the first day in respect of which the claim is made, if later.◄

►<sup>5</sup>(1G) In paragraph (1F) "properly completed" has the meaning assigned by regulation 4(8) in the case of a written claim and 4(12) in the case of a telephone claim.◄

<sup>5</sup>Para. (1G) inserted in reg. 6 by reg. 2(6)(f) of S.I. 2009/1490 as from 13.7.09.

(2) ►<sup>6</sup>◄

<sup>6</sup>Reg. 6(2) deleted by reg. 2 of S.I. 1988/522 as from 11.4.88.

►<sup>7</sup>(3) In the case of a claim for income support, ►<sup>8</sup>working families' tax credit, disabled persons' tax credit◄►<sup>9</sup>or jobseeker's allowance◄►<sup>10</sup>◄, 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.

<sup>7</sup>Regs. 6(3) & (4) inserted by reg. 2 of S.I. 1988/522 as from 11.4.88.

<sup>8</sup>Words substituted in reg. 6(3) by reg. 24 of S.I. 1999/2572 as from 5.10.99.

(4) Paragraph (3) shall not apply when the time for claiming income support ►<sup>11</sup>, working families' tax credit, disabled persons' tax credit◄►<sup>12</sup>or jobseeker's allowance◄ has been extended under regulation 19 and the failure to claim within the prescribed time for the purposes of that regulation is for the reason only that the claim has been sent by post.◄

<sup>9</sup>Words inserted in para. (3) by reg. 3(4) of S.I. 1997/793 as from 7.4.97.

<sup>10</sup>Words deleted from reg. 6(3) by reg. 6 of S.I. 1991/2284 as from 1.11.91.

<sup>11</sup>Words substituted in reg. 6(4) by reg. 25 of S.I. 1999/2572 as from 5.10.99.

<sup>12</sup>Words substituted in reg. 6(4) by reg. 2(5)(b) of S.I. 1996/1460 as from 7.10.96.

(a) Sch. 4 was relevantly amended by reg. 26 of S.I. 1991/2741 and regs. 24 and 25 of, and Parts V and VI of the Sch. to, S.I. 1999/2572.

(b) Paragraph (6B) was inserted by S.I. 2003/1632.

**Reg. 6**

<sup>1</sup>Regs. 6(4ZA) to (4ZD) inserted by reg. 2(4)(a) of S.I. 2000/1982 as from 19.3.01.

►<sup>1</sup>(4ZA) Where a member of a joint-claim couple notifies the employment officer (by whatever means) that he wishes to claim a jobseeker's allowance jointly with the other member of that couple, the claim shall be treated as made on the relevant date specified in accordance with paragraphs (4ZB) to (4ZD).

(4ZB) Where each member of a joint-claim couple is required to attend under regulation 4(6)(a)–

- (a) if each member subsequently attends for the purpose of jointly claiming a jobseeker's allowance at the time and place specified by the employment officer and complies with the requirements of paragraph (4AA)(a), the claim shall be treated as made on whichever is the later of the first notification of intention to make that claim and the first day in respect of which the claim is made;
- (b) if, without good cause, either member fails to attend for the purpose of jointly claiming a jobseeker's allowance at either the time or place so specified or does not comply with the requirements of paragraph (4AA)(a), the claim shall be treated as made on the first day on which a member of the couple attends at the specified place and complies with the requirements of paragraph (4AA)(a).

(4ZC) Where only one member of the couple is required to attend under regulation 4(6)(a)–

- (a) subject to the following sub-paragraphs, the date on which the claim is made shall be the date on which a properly completed claim is received in an appropriate office ►<sup>2</sup>or a claim made by telephone is properly completed◄ or the first day in respect of which the claim is made, if later, provided the member of the couple who is required to attend under regulation 4(6)(a) does so attend;
- (b) where a properly completed form is received in an appropriate office ►<sup>2</sup>or a claim made by telephone is properly completed◄ within one month of first notification of intention to make that claim, the date of claim shall be the date of that notification;
- (c) if, without good cause, the member of the couple who is required to attend under regulation 4(6)(a) fails to attend for the purpose of making a claim at either the time or place so specified or does not comply with the requirements of paragraph (4AA), the claim shall be treated as made on the first day on which that member does attend at that place and does provide a properly completed claim.

(4ZD) Where, as at the day on which a member of a joint-claim couple (“the first member”) notifies the employment officer in accordance with paragraph (4ZA), the other member of that couple is temporarily absent from Great Britain in the circumstances specified in regulation 50(6B) of the Jobseeker's Allowance Regulations, the date on which the claim is made shall be the relevant date specified in paragraph (4ZB) or (4ZC) but nothing in this paragraph shall treat the claim as having been made on a day which is more than three months after the day on which the first member notified the employment officer in accordance with paragraph (4ZA).◄

►<sup>3</sup>(4A) Where a person ►<sup>4</sup>who is not a member of a joint-claim couple◄ notifies the ►<sup>5</sup>employment officer◄ (by whatever means) that he wishes to claim a jobseeker's allowance–

- (a) if he is required to attend under regulation 4(6)(a)–
  - (i) if he subsequently attends for the purpose of making a claim for that benefit at the time and place specified by the ►<sup>5</sup>employment officer◄ and complies with the requirements of paragraph (4AA)►<sup>5</sup>(b)◄, the claim shall be treated as made on whichever is the later of first notification of intention to make that claim and the first day in respect of which the claim is made;
  - (ii) if, without good cause, he fails to attend for the purpose of making a claim for that benefit at either the time or place so specified, or does not comply with the requirements of paragraph (4AA)►<sup>6</sup>(b)◄, the claim shall be treated as made on the first day on which he does attend at that place and does provide a properly completed claim;

<sup>2</sup>Words inserted in paras. (4ZC)(a) & (b) in reg. 6 by reg. 2(6)(g) of S.I. 2009/1490 as from 13.7.09.

<sup>3</sup>Regs. 6(4A) to (4AB) substituted for reg. 6(4A) by reg. 3(5) of S.I. 1997/793 as from 6.10.97.

<sup>4</sup>Words substituted in reg. 6(4A) by reg. 2(4)(b)(i) of S.I. 2000/1982 as from 19.3.01.

<sup>5</sup>Words substituted in reg. 6(4A) by para. 2(4)(b) of Sch. 3 to S.I. 1999/3108 as from 29.11.99.

<sup>6</sup>Words substituted in reg. 6(4A) by reg. 2(4)(b) of S.I. 2000/1982 as from 19.3.01.



- (b) if under regulation 4(6)(a) the Secretary of State directs that he is not required to attend—
- (i) subject to the following sub-paragraph, the date on which the claim is made shall be the date on which a properly completed claim is received in an appropriate office <sup>1</sup>or a claim made by telephone is properly completed<sup>1</sup> or the first day in respect of which the claim is made if later;
- (ii) where a properly completed claim is received in an appropriate office <sup>1</sup>or a claim made by telephone is properly completed<sup>1</sup> within one month of first notification of intention to make that claim, the date of claim shall be the date of that notification.

<sup>1</sup>Words inserted in reg. 6(4A)(b)(i) & (ii) & (4AA) by regs. 2(6)(h) & (i) of S.I. 2009/1490 as from 13.7.09.

<sup>2</sup>(4AA) Unless the Secretary of State otherwise directs, a properly completed claim shall be provided <sup>3</sup>or made<sup>3</sup>—

<sup>2</sup>Reg. 6(4AA) substituted by reg. 2(4)(c) of S.I. 2000/1982 as from 19.3.01.

- (a) in a case to which paragraph (4ZA) applies, at or before the time when a member of the joint-claim couple is first required to attend for the purpose of making a claim for a jobseeker's allowance;
- (b) in any other case, at or before the time when the person making the claim for a jobseeker's allowance is required to attend for the purpose of making a claim.<sup>4</sup>

<sup>3</sup>Words inserted in regs. 6(4AA) & 6(4AB) by regs. 2(6)(i) & (j) of S.I. 2009/1490 as from 13.7.09.

(4AB) The Secretary of State may direct that the time for providing <sup>3</sup>or making<sup>4</sup> a properly completed claim may be extended to a date no later than the date one month after the date of first notification of intention to make that claim.<sup>4</sup>

<sup>4</sup>(4B) Where a person's entitlement to a jobseeker's allowance has ceased in any of the circumstances specified in regulation 25(1)(a), (b) or (c) of the Jobseeker's Allowance Regulations (entitlement ceasing on a failure to comply) and—

<sup>4</sup>Regs. 6(4B) to (4C) inserted by reg. 2(5)(c) of S.I. 1996/1460 as from 7.10.96.

- (a) where he had normally been required to attend in person, he shows that the failure to comply which caused the cessation of his previous entitlement was due to any of the circumstances mentioned in regulation 30(c) or (d) of those Regulations, and no later than the day immediately following the date when those circumstances cease to apply he makes a further claim for jobseeker's allowance; or
- (b) where he had not normally been required to attend in person, he shows that he did not receive the notice to attend and he immediately makes a further claim for jobseeker's allowance,

that further claim shall be treated as having been made on the day following that cessation of entitlement.

(4C) Where a person's entitlement to a jobseeker's allowance ceases in the circumstances specified in regulation 25(1)(b) of the Jobseeker's Allowance Regulations (failure to attend at time specified) and that person makes a further claim for that allowance on the day on which he failed to attend at the time specified, that claim shall be treated as having been made on the following day.<sup>5</sup>

<sup>5</sup>(4D) In the case of a claim for income support to which regulation 4(3C) (claim by refugee) refers, the claim shall be treated as made <sup>6</sup>on the date on which his claim for asylum was recorded by the Secretary of State as having been made.<sup>6</sup>

<sup>5</sup>Reg. 6(4D) inserted by reg. 7(c) of S.I. 1996/2431 as from 15.10.96.

*Transitional arrangements indicated in S.I. 2000/636, reg. 12(2)(b) provide that sub-paras. (a) & (b) of reg. 6(4D) still have effect in certain circumstances.*

<sup>6</sup>Words substituted for sub-paras. (a) & (b) of reg. 6(4D) by reg. 5(3) of S.I. 2000/636 as from 3.4.00.

(4D) In the case of a claim for income support to which regulation 4(3C) (claim by refugee) refers, the claim shall be treated as made—

- (a) in the case of a claimant who made a claim for asylum upon arrival in the United Kingdom, on the date on which his claim for asylum was first refused by the Secretary of State; or
- (b) in the case of a claimant whose claim for asylum was made other than on arrival in the United Kingdom, on the date of that claim for asylum.

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<sup>1</sup>Para. (5) added to reg. 6 by reg. 4(3) of S.I. 1989/1686 as from 9.10.89.

<sup>2</sup>Words inserted and words substituted in reg. 6(5) by reg. 4(c) of S.I. 1991/2741 as from 3.2.92.

<sup>3</sup>Paras. (6) and (7) added to reg. 6 by reg. 2(3) of S.I. 1990/725 as from 9.4.90.

<sup>4</sup>Words inserted in reg. 6(6) by reg. 9 of S.I. 1990/2208 as from 5.12.90.

<sup>5</sup>Regs. 6(8) & (9) added by reg. 4(d) of S.I. 1991/2741 as from 3.2.92.

<sup>6</sup>Words inserted into reg. 6(8) & para (8A) added by reg. 3(2) of S.I. 1993/2113 as from 27.9.93.

<sup>7</sup>Words substituted in para. (8) by reg. 2(5)(b) of S.I. 2003/1632.

<sup>8</sup>Para (8B) inserted by reg. 2(5)(c) of S.I. 2003/1632.

<sup>9</sup>Words in reg. 6(9) substituted by reg. 2 of S.I. 1993/2319 as from 3.10.94.

<sup>10</sup>Regs. 6(10) & (11) added by reg. 4(e) of S.I. 1991/2741 as from 10.3.92.

►<sup>1</sup>(5) Where a person submits a claim for attendance allowance ►<sup>2</sup>or disability living allowance or a request under paragraph (8)◄ by post and the arrival of that ►<sup>2</sup>claim or request◄ at an appropriate office is delayed by postal disruption caused by industrial action, whether within the postal service or elsewhere, the ►<sup>2</sup>claim or request◄ shall be treated as received on the day on which it would have been received if it had been delivered in the ordinary course of post.◄

►<sup>3</sup>(6) Where—

- (a) on or after 9th April 1990 a person satisfies the capital condition in section 22(6) of the Social Security Act 1986(a) for income support and he would not have satisfied that condition had the amount prescribed under regulation 45 of the Income Support (General) Regulations 1987(b) been £6,000; and
- (b) a claim for that benefit is received from him in an appropriate office not later than 27th May 1990;

the claim shall be treated as made on the date ►<sup>4</sup>not later than 5th December 1990◄ determined in accordance with paragraph (7).

(7) For the purpose of paragraph (6), where—

- (a) the claimant satisfies the other conditions of entitlement to income support on the date on which he satisfies the capital condition, the date shall be the date on which he satisfied that condition;
- (b) the claimant does not satisfy the other conditions of entitlement to income support on the date on which he satisfies the capital condition, the date shall be the date on which he satisfies the conditions of entitlement to that benefit.◄

►<sup>5</sup>(8) ►<sup>6</sup>Subject to◄ ►<sup>7</sup>paragraphs (8A) and (8B)◄ where—

- (a) a request is received in an appropriate office for a claim form for disability living allowance or attendance allowance; and
- (b) in response to the request a claim form for disability living allowance or attendance allowance is issued from an appropriate office; and
- (c) within the time specified the claim form properly completed is received in an appropriate office,

the date on which the claim is made shall be the date on which the request was received in the appropriate office.

►<sup>6</sup>(8A) Where, in a case which would otherwise fall within paragraph (8), it is not possible to determine the date when the request for a claim form was received in an appropriate office because of a failure to record that date, the claim shall be treated as having been made on the date 6 weeks before the date on which the properly completed claim form is received in an appropriate office.◄

►<sup>8</sup>(8B) In the case of a claim for disability living allowance or attendance allowance made in accordance with regulation 4(6B), paragraphs (8) and (8A) shall apply in relation to an office specified in that regulation as they apply in relation to an appropriate office.◄

(9) ►<sup>9</sup>In paragraphs (8) and (8A)◄—

“a claim form” means a form approved by the Secretary of State under regulation 4(1);

“properly completed” has the meaning assigned by regulation 4(8);

“the time specified” means 6 weeks from the date on which the request was received or such longer period as the Secretary of State may consider reasonable.◄

►<sup>10</sup>(10) Where a person starts a job on Monday or Tuesday in any week and he

(a) 1986 c. 50.

(b) S.I. 1987/1967.

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makes a claim for ►<sup>1</sup>disabled persons' tax credit◄ in that week the claim shall be treated as made on the Tuesday of that week.

(11) ►<sup>2</sup>◄◄

►<sup>3</sup>(12) ►<sup>4</sup>◄ Where a person has claimed ►<sup>4</sup>disabled persons' tax credit◄ and that claim ("the original claim") has been refused, and a further claim is made in the circumstances specified in paragraph (13), that further claim shall be treated as made—

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the qualifying benefit was payable,

whichever is the later.

(13) The circumstances referred to in paragraph (12) are that—

- (a) the original claim was refused on the ground that the claimant did not qualify under section 129(2) of the Contributions and Benefits Act;
- (b) at the date of the original claim the claimant has made a claim for a qualifying benefit and that claim not been determined;
- (c) after the original claim had been determined, the claim for the qualifying benefit was determined in the claimant's favour; and
- (d) the further claim for ►<sup>4</sup>disabled persons' tax credit◄ was made within three months of the date that the claim for the qualifying benefit was determined.

(14) ►<sup>5</sup>◄

(15) In paragraphs (12) and (13) "qualifying benefit" means any of the benefits referred to in section 129(2) of the Contributions and Benefits Act.

►<sup>6</sup>(15A) Paragraphs (16) to (34) shall not apply in any case where it would be advantageous to the claimant to apply the provisions of regulation 19 (time for claiming benefit)◄

►<sup>7</sup>(16) Where a person has claimed a relevant benefit and that claim ("the original claim") has been refused in the circumstances specified in paragraph (17), and a further claim is made in the additional circumstances specified in paragraph (18), that further claim shall be treated as made

- (a) on the date of the original claim; or
- (b) on the first date in respect of which the qualifying benefit was ►<sup>8</sup>awarded◄

whichever is the later.

(17) The circumstances referred to in paragraph (16) are that the ground for refusal was—

- (a) in the case of severe disablement allowance, that the claimant's disablement was less than 80 per cent.;
- (b) ►<sup>9</sup>◄
- (c) in any case, that the claimant ►<sup>8</sup>, a member of his family or the disabled person◄ had not been awarded a qualifying benefit.

(18) The additional circumstances referred to in paragraph (16) are that—

- <sup>8</sup>(a) a claim for the qualifying benefit was made not later than 10 working days after the date of the original claim and the claim for the qualifying benefit had not been decided;
- (b) after the original claim had been decided the claim for the qualifying benefit had been decided in favour of the claimant, a member of his family or the disabled person; and◄
- (c) the further claim was made within three months of the date on which the claim for the qualifying benefit was decided.

(19) Where a person has been awarded a relevant benefit and that award ("the ►<sup>6</sup>original award") has been terminated and reduced or payment under that award ceases in the circumstances◄ specified in paragraph (20), and a further claim is made

<sup>1</sup>Words substituted in reg. 6(10) by reg. 25 of S.I. 1999/2572 as from 5.10.99.

<sup>2</sup>Reg. 6(11) deleted by reg. 5(a) of S.I. 1999/2572 as from 5.10.99.

<sup>3</sup>Reg. 6(12) to (28) inserted by reg. 3(6) of S.I. 1997/793 as from 7.4.97.

<sup>4</sup>Words omitted from and substituted in paras. (12) and (13) by regs. 5(b) and 25 of S.I. 1999/2572 as from 5.10.99.

<sup>5</sup>Para. (14) omitted by reg. 5(a) of S.I. 1999/2572 as from 5.10.99.

<sup>6</sup>Para. (15A) inserted & words substituted in para. (19) by reg. 2(3) of S.I. 2007/2470 as from 24.9.07.

<sup>7</sup>Paras. (16) to (26) substituted in reg. 6 by reg. 3(a) of S.I. 2000/1596 as from 19.6.00.

<sup>8</sup>Words substituted & inserted in reg. 6(16), (17) & (18) by reg. 2(2), (3) & (4) of S.I. 2002/428 as from 2.4.02.

<sup>9</sup>Reg. 6(17)(b) omitted by reg. 2(4)(b) of S.I. 2006/832 as from 10.4.06.

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in the additional circumstances specified in paragraph (21), that further claim shall be treated as made—

- (a) on the date of termination of the original award; or
- (b) on the first date in respect of which the qualifying benefit <sup>1</sup>is <sup>2</sup>awarded or <sup>3</sup>re-awarded or becomes payable again<sup>4</sup>,

whichever is the later.

<sup>1</sup>Words substituted in reg. 6(19)(b) by reg. 2(5) of S.I. 2002/428 as from 2.4.02.

<sup>2</sup>Words inserted in reg. 6(19)(b) and para. (20) substituted by reg. 2(3)(a) & (b) of S.I. 2006/2377 as from 2.10.06.

<sup>3</sup>Words substituted in para. (19)(b) and omitted in (20)(a) by reg. 2(4) of S.I. 2007/2470 as from 24.9.07.

<sup>4</sup>Words inserted and substituted in paras. (20)(b), (21) & (21)(a), paras. (20)(c) and (21A) added and para. (21)(b) substituted by reg. 2(5)-(7) of S.I. 2007/2470 as from 24.9.07.

<sup>2</sup>(20) The circumstances referred to in paragraph (19) are—

- (a) that the award of the qualifying benefit has itself been terminated or reduced by means of a revision, supersession, appeal or termination of an award for a fixed period in such a way as to affect the original award; <sup>3</sup><sup>4</sup>
- (b) at the date the original award was terminated the claimant's claim for a qualifying benefit had not been decided.<sup>4</sup>or<sup>4</sup>

<sup>4</sup>(c) that the qualifying benefit has ceased to be payable in accordance with—

- (i) regulation 6(1) of the Social Security (Attendance Allowance) Regulations 1991(a) or regulation 8(1) of the Social Security (Disability Living Allowance) Regulations 1991(b) because the claimant is undergoing treatment as an in-patient in a hospital or similar institution, or
- (ii) regulation 7 of the Social Security (Attendance Allowance) Regulations 1991 or regulation 9 of the Social Security (Disability Living Allowance) Regulations 1991 because the claimant is resident in certain accommodation other than a hospital.<sup>4</sup>

(21) <sup>4</sup>Subject to paragraph (21A), the additional<sup>4</sup> circumstances referred to in paragraph (19) are that—

- (a) after the original award has been terminated the claim for the qualifying benefit is decided in <sup>5</sup>favour of the claimant, a member of his family or the disabled person<sup>4</sup>; <sup>4</sup>or<sup>4</sup>

<sup>4</sup>(b) the qualifying benefit is re-awarded following revision, supersession or appeal; or

- (c) the qualifying benefit is re-awarded on a renewal claim when an award for a fixed period expires; or

- (d) the cessation of payment ends when the claimant leaves the hospital or similar institution or accommodation referred to in paragraph (20)(c); and

<sup>5</sup>Words substituted in para. (21) by reg. 2(6) of S.I. 2002/428 from 2.4.02.

the further claim <sup>6</sup>for a relevant benefit<sup>4</sup> referred to in paragraph (19), is made within three months of the date <sup>6</sup>of the decision to award, re-award, or recommence payment of the qualifying benefit on the grounds that sub-paragraph (a), (b), (c) or (d) was satisfied<sup>4</sup>.

<sup>6</sup>Words inserted and substituted in para. (21) by reg. 2(4)(b)(i) & (ii) of S.I. 2008/2667 as from 30.10.08.

(21A) Paragraph (21) applies whether the benefit is re-awarded when the further claim is decided or following a revision of, or an appeal against, such a decision.<sup>4</sup>

<sup>7</sup>Words substituted in reg. 6(22) by reg. 2(4)(c) of S.I. 2006/832 as from 10.4.06.

(22) In paragraphs (16) to (21) <sup>7</sup>, (30) and (33)<sup>4</sup>—

“relevant benefit” means any of the following, namely—

- (a) benefit under Parts II to V of the Contributions and Benefits Act except incapacity benefit;

- (b) income support;

- (c) a jobseeker's allowance;

- (d) a social fund payment mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act;

- (e) child benefit;

<sup>8</sup>(f) state pension credit<sup>4</sup>

“qualifying benefit” means—

<sup>8</sup>Sub-para (f) inserted in para (22) by reg. 7(4)(c) of S.I. 2005/337 as from 18.03.05.

(a) S.I. 1991/2740. Regulation 6(1) was substituted by S.I. 1992/2869. Regulation 7 was amended by S.I. 1992/2869, S.I. 1992/3147, S.I. 1993/518, S.I. 2001/3767, S.I. 2002/208, S.I. 2002/1406, S.I. 2003/2259, S.I. 2005/445, S.I. 2005/2078 and S.I. 2005/2687.

(b) S.I. 1991/2890. Regulation 8 was substituted by S.I. 1992/2869 and amended by S.I. 2000/1401. Regulation 9 was amended by S.I. 1992/633, S.I. 1992/2869, S.I. 1992/3147, S.I. 1993/518, S.I. 1995/2162, S.I. 2000/3181, S.I. 2001/3767, S.I. 2002/208, S.I. 2002/1406, S.I. 2003/2259, S.I. 2005/445, S.I. 2005/2078 and S.I. 2005/2687.

- (a) in relation to severe disablement allowance the highest rate of the care component of disability living allowance;
- (b) in relation to invalid care allowance, <sup>1</sup>or carer's allowance<sup>◀</sup> any benefit or payment referred to in section 70(2) of the Contributions and Benefits Act;
- (c) in relation to a social fund payment in respect of maternity or funeral expenses, any benefit referred to in <sup>2</sup>regulation 5(1)(a) or 7(4)(a) of the Social Fund Maternity and Funeral Expenses (General) Regulations 2005(a)<sup>◀</sup>;
- (d) any other relevant benefit which <sup>3</sup>, when it is awarded or re-awarded,<sup>◀</sup> has the effect of making another relevant benefit payable or payable at an increased rate;

“the disabled person” means the person for whom the invalid care allowance <sup>1</sup>or carer's allowance<sup>◀</sup> claimant is caring in accordance with section 70(1)(a) of the Contributions and Benefits Act.

“family” has the same meaning as in section 137(1) of the Contributions and Benefits Act(b) or, as the case may be, section 35(1) of the Jobseekers Act(c) <sup>4</sup>, and in the case of state pension credit “member of this family” means the other member of a couple where the claimant is a member of a <sup>5</sup>◀ couple<sup>◀</sup>

(23) Where a person has ceased to be entitled to incapacity benefit, and a further claim for that benefit is made in the circumstances specified in paragraph (24), that further claim shall be treated as made—

- (a) on the date on which entitlement to incapacity benefit ceased; or
- (b) on the first date in respect of which the qualifying benefit was payable,

whichever is the later.

(24) The circumstances referred to in paragraph (23) are that—

- (a) entitlement to incapacity benefit ceased on the ground that the claimant was not incapable of work;
- (b) at the date that entitlement ceased the claimant had made a claim for a qualifying benefit and that claim had not been decided;
- (c) after entitlement had ceased, the claim for the qualifying benefit was decided in the claimant's favour; and
- (d) the further claim for incapacity benefit was made within three months of the date on which the claim for the qualifying benefit was decided.

(25) In paragraphs (23) and (24) “qualifying benefit” means any of the payments referred to in regulation 10(2)(a) of the Social Security (Incapacity for Work) (General) Regulations 1995(d).

(26) In paragraphs <sup>6</sup>(18)(a) and (c), (21)(a), (24) and (30) and in paragraph (18)(b)<sup>◀</sup> where the word appears for the second time, “decided” includes the making of a decision following a revision, supersession or an appeal, whether by the Secretary of State, <sup>7</sup>the First-tier Tribunal, the Upper Tribunal<sup>◀</sup> or the court.

(27) Where a claim is made for <sup>8</sup>working families' tax credit<sup>◀</sup> or <sup>8</sup>disabled persons' tax credit<sup>◀</sup> and—

- (a) the claimant had previously made a claim for income support or jobseeker's allowance (“the original claim”);
- (b) the original claim was refused on the ground that the claimant or his partner was in remunerative work; and
- (c) the claim for <sup>8</sup>working families' tax credit<sup>◀</sup> or <sup>8</sup>disabled persons' tax credit<sup>◀</sup> was made within 14 days of the date that the original claim was determined,

<sup>1</sup>Words inserted in reg. 22; para. (b) of defn. of “qualifying benefit” & in defn. of “the disabled person” by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

<sup>2</sup>Words in reg. 6(22) substituted by reg. 3(2) of S.I. 2010/510 as from 1.4.10.

<sup>3</sup>Words inserted in defn. of “qualifying benefit” by reg. 2(7)(b) of S.I. 2002/428 as from 2.4.02.

<sup>4</sup>Words added to defn. of “family” by reg. 7(4)(c) of S.I. 2005/337 as from 18.3.05.

<sup>5</sup>Words omitted from defn. of “family” in reg. 6(22) by reg. 5(2) of S.I. 2005/2878 as from 5.12.05.

<sup>6</sup>Words substituted in reg. 6(26) by reg. 2(4)(d) of S.I. 2006/832 as from 10.4.06.

<sup>7</sup>Words substituted in reg. 6(26) by art. 43 of S.I. 2008/2683 as from 3.11.08.

<sup>8</sup>Words substituted in reg. 6(27) by regs. 24 & 25 of S.I. 1999/2572 as from 5.10.99.

(a) S.I. 2005/3061.

(b) 1992 c. 4.

(c) 1995 c. 18.

(d) S.I. 1995/311, the relevant amending instrument is S.I. 1995/987.

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that claim shall be treated as made on the date of the original claim, or, if the claimant so requests, on a later date specified by the claimant.

(28) Where a claim is made for income support or jobseeker's allowance, and—

<sup>1</sup>Words in (28)(a) substituted & words in (b) inserted by reg. 3(a) & (b) of S.I. 2003/455 as from 7.3.03.

- (a) the claimant had previously made a claim for ►<sup>1</sup>working tax credit◄ (“the original claim”);
- (b) the original claim was refused on the ground that the claimant or his partner was not in remunerative work ►<sup>1</sup>for the purposes of that tax credit◄; and
- (c) the claim for income support or jobseeker's allowance was made within 14 days of the date that the original claim was determined,

that claim shall be treated as made on the date of the original claim, or, if the claimant so requests, on a later date specified by the claimant. ◄

<sup>2</sup>Reg. 6(29) added by reg. 5 of S.I. 1997/2290 as from 13.10.97.

►<sup>2</sup>(29) In the case of a claim for an increase of severe disablement allowance or of invalid care allowance ►<sup>3</sup>or carer's allowance◄ in respect of a child or adult dependant, ►<sup>4</sup>paragraphs (16) and (19)◄ shall apply to the claim as if it were a claim for severe disablement allowance or, as the case may be, invalid care allowance ►<sup>3</sup>or carer's allowance◄. ◄

<sup>3</sup>Words inserted in reg. 6(29) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

<sup>4</sup>Words substituted in reg. 6(29) by reg. 3(b) of S.I. 2000/1596 as from 19.6.00.

<sup>5</sup>Para. 30 inserted by reg. 2(8) of S.I. 2002/428 as from 2.4.02.

<sup>6</sup>Words omitted in reg. 6(30)(b) by reg. 2(8) of S.I. 2007/2470 as from 24.9.07.

►<sup>5</sup>(30) Where—

- (a) a claimant was awarded income support or income-based jobseeker's allowance (“the original award”);
- (b) the original award was terminated and ►<sup>6</sup>◄ the claimant, a member of his family or the disabled person claimed a qualifying benefit; and
- (c) the claimant makes a further claim for income support or income-based jobseeker's allowance within 3 months of the date on which the claim for the qualifying benefit was decided,

the further claim shall be treated as made on the date of termination of the original award or the first date in respect of which the qualifying benefit is awarded, whichever is the later. ◄

<sup>7</sup>Paras. (31) & (32) added to reg. 6 by reg. 2 of S.I. 2004/2283 as from 27.9.04

►<sup>7</sup>(31) Subject to paragraph (32), where—

- (a) a person—
  - (i) has attained pensionable age, but for the time being makes no claim for a Category A retirement pension; or
  - (ii) has attained pensionable age and has a spouse ►<sup>8</sup>or civil partner◄ who has attained pensionable age, but for the time being makes no claim for a Category B retirement pension;
- (b) in accordance with regulation 50A of the Social Security (Contributions) Regulations 2001(a), (Class 3 contributions: tax years 1996-97 to 2001-02) the Commissioners of Inland Revenue subsequently accept Class 3 contributions paid after the due date by the person or, in the case of a Category B retirement pension, the spouse ►<sup>8</sup>or civil partner◄;
- (c) in accordance with regulation 6A of the Social Security (Crediting and Treatment of Contributions, and National Insurance Numbers) Regulations 2001(b) the contributions are treated as paid on a date earlier than the date on which they were paid; and
- (d) the person claims a Category A or, as the case may be, a Category B retirement pension,

<sup>8</sup>Words inserted in para. (31)(a)(ii) & (b) of reg. 6 by para. 14(5) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

the claim shall be treated as made on—

- (i) 1st October 1998; or
- (ii) the date on which the person attained pensionable age in the case of a Category A retirement pension, or, in the case of a Category B retirement

(a) S.I. 2001/1004; reg. 50A was inserted by S.I. 2004/1362.

(b) S.I. 2001/769; reg. 6A was inserted by S.I. 2004/1361.

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pension, the date on which the person's spouse<sup>1</sup> or civil partner<sup>2</sup> attained pensionable age, whichever is later.

<sup>1</sup>Words inserted in para. (31)(d)(ii) of reg. 6 by para. 14(5) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

(32) Paragraph (31) shall not apply where—

- (a) the person's entitlement to a Category A or B retirement pension has been deferred by virtue of section 55(2)(a) of the Contributions and Benefits Act (increase of retirement pension where entitlement is deferred); or
- (b) the person's nominal entitlement to a Category A or B retirement pension is deferred in pursuance of section 36(4) and (7) of the National Insurance Act 1965 (b) (increase of graduated retirement benefit where entitlement is deferred),

nor where sub-paragraph (a) and (b) both apply.

<sup>2</sup>(33) <sup>3</sup> Subject to paragraph (34), where a person makes a claim for a carer's allowance<sup>4</sup> or for an increase in carer's allowance in respect of an adult or child dependant<sup>5</sup> within 3 months of a decision made—

<sup>2</sup>Para. (33) added to reg. 6 by reg. 2(4)(e) of S.I. 2006/832 as from 10.4.06.

- (a) on a claim;
- (b) on revision or supersession; or
- (c) on appeal whether by<sup>6</sup> the First-tier Tribunal, the Upper Tribunal; or the court,

<sup>3</sup>Words substituted in para. (33) by reg. 2(9) of S.I. 2007/2470 as from 24.9.07.

awarding a qualifying benefit to the disabled person, the date of claim<sup>4</sup> shall be treated as the first day of the benefit week in which the award of the qualifying benefit became payable.

<sup>4</sup>Words inserted in para. 33 & para. 34 substituted by regs. 2(4)(c)-(d) of S.I. 2008/2667 as from 30.10.08.

<sup>5</sup>(34) Where the decision awarding a qualifying benefit is made in respect of the renewal claim where a fixed period award of that benefit has expired, or is due to expire, the date of claim for carer's allowance shall be treated as the first day of the benefit week in which the renewal award of qualifying benefit became payable.

<sup>5</sup>Words substituted in reg. 6(33)(c) by art. 43 of S.I. 2008/2683 as from 3.11.08.

<sup>6</sup>(35) A claim for attendance allowance or the care component of disability living allowance which is in respect of a period beginning on or before 18th October 2007 but which is made after that date, is to be treated as made on 18th October 2007 where—

<sup>6</sup>Reg. 6(35)-(37) inserted by reg. 3 of S.I. 2011/2426 as from 31.10.11.

- (a) on or after 8th March 2001, the claimant had an award of that benefit;
- (b) the Secretary of State made a superseding decision to end that award on the ground that there had been, or it was anticipated that there would be, a relevant change of circumstances as a result of the claimant's moving, or planning to move, from Great Britain to an EEA state or Switzerland;
- (c) that superseding decision was confirmed on appeal; and
- (d) the claimant has not received an extra-statutory payment in respect of the benefit being claimed.

(36) A claim for carer's allowance which is in respect of a period beginning on or before 18th October 2007 but which is made after that date, is to be treated as made on 18th October 2007 where—

- (a) on or after 8th March 2001, the claimant had an award of that benefit;
- (b) the Secretary of State made a superseding decision to end that award on the ground that there had been, or it was anticipated that there would be, a relevant change of circumstances as a result of—
  - (i) the claimant's moving from Great Britain to an EEA state or Switzerland; or
  - (ii) the claimant no longer caring for a severely disabled person, as defined in section 70(2) of the Contributions and Benefits Act, because that person's award of attendance allowance or the care component of disability living allowance had ended, or would end, by virtue of a

(a) S. 55 was substituted by the Pensions Act 1995 (c. 26), s. 134(3).

(b) 1965 c. 51; s. 36(4) was continued in force and modified by S.I. 1978/393, reg. 3(3).

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superseding decision made on the ground of that person's moving from Great Britain to an EEA state or Switzerland; and

- (c) the claimant has not received an extra-statutory payment in respect of that allowance.

(37) In paragraphs (35)(d) and (36)(c), "extra-statutory payment" means a payment made by the Secretary of State, in respect of attendance allowance, the care component of disability living allowance or carer's allowance, which, but for the superseding decision referred to in paragraph (35)(b) or, as the case may be, (36)(b), would have been payable from 18th October 2007.

<sup>6</sup>Reg. 6A inserted by Sch. 5, para. 4 of S.I. 2000/897 as from 3.4.00.

<sup>7</sup>Para. (1) of reg. 6A substituted by Sch. 2, para. 1 of S.I. 2001/3210 as from 22.10.01.

►<sup>6</sup>Claims by persons subject to work-focused interviews

**6A.**—►<sup>7</sup>(1) This regulation applies to any person who is required to take part in a work-focused interview in accordance with regulations made under section 2A(1)(a) of the Social Security Administration Act 1992.◀

(2) Subject to the following provisions of this regulation, where a person takes part in a work-focused interview, the date on which the claim is made shall be—

- (a) in a case where—
- (i) the claim made by the claimant meets the requirements of regulation 4(1), or
  - (ii) the claim made by the claimant is for income support and meets the requirements of regulation 4(1A),

the date on which the claim is received in the appropriate office;

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

- (c) in a case where—
- (i) first notification of intention to claim income support is made to an appropriate office, or
  - (ii) a claim for income support is received in an appropriate office which does not meet the requirements of regulation 4(1A),

the date of notification or, as the case may be, the date the claim is first received where the properly completed claim form is received within 1 month of notification or the date the claim is first received, or the day on which a properly completed claim form is received where these requirements are not met.

- <sup>1</sup>(d) without prejudice to sub-paragraphs (a) and (b), where a properly completed claim for incapacity benefit is received in an appropriate office within one month of the claimant first notifying such an office, by whatever means, of his intention to make that claim, the date of claim shall be the date on which that notification is made or the first day in respect of which the claim is made if later.◀

<sup>1</sup>Sub-para. (d) inserted in reg. 6A(2) by reg. 2(5) of S.I. 2006/832 as from 10.4.06.



(3) In a case where a decision is made that a person is regarded as not having made a claim for any benefit because he failed to take part in a work-focused interview but subsequently claims such a benefit, in applying paragraph (2) to that claim no regard shall be had to any claim regarded as not having been made in consequence of that decision.

(4) Paragraph (2) shall not apply in any case where a decision has been made that the claimant has failed to take part in a work-focused interview.◀

▶<sup>1</sup>(5) In regulation 4 and this regulation, “work-focused interview” means an interview which ▶<sup>2</sup>is conducted for such purposes connected with employment or training as are specified in regulations made under section 2A of the Social Security Administration Act 1992(a).◀◀

<sup>1</sup>Sub-para (5) substituted by Sch. 2, para. 1 of S.I. 2002/1703 as from 30.9.02.

<sup>2</sup>Words substituted in reg. 6(A)(5) by reg. 22 of S.I. 2004/959 as from 26.4.04.

<sup>3</sup>Words inserted in reg. 7(1) by reg. 2(6)(a) of S.I. 1996/1460 as from 7.10.96.

<sup>4</sup>Words inserted in reg. 7(1) by para. 2(5) of Sch. 3 to S.I. 1999/3108 as from 29.11.99.

<sup>5</sup>For tax credit purposes only, the words in square brackets substituted & inserted in regs. 7(1), (2) & (3) by regs. 6(2) & (3) & 21 of S.I. 1999/2572 as from 5.10.99.

<sup>6</sup>Reg. 7(1A), (1B) & (1C) inserted by reg. 5(a) of S.I. 2002/3019 as from 6.10.03.

## Evidence and information

7.—(1) ▶<sup>3</sup>Subject to paragraph (7),◀ 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 ▶<sup>4</sup>or, in a case where regulation 4A applies, the relevant authority◀ [▶<sup>5</sup>Board◀] and shall do so within one month of being required to do so or such longer period as the Secretary of State [▶<sup>5</sup>Board◀] may consider reasonable.

▶<sup>6</sup>(1A) A claimant shall furnish such information and evidence as the Secretary of State may require as to the likelihood of future changes in his circumstances which is needed to determine—

- (a) whether a period should be specified as an assessed income period under section 6 of the 2002 Act in relation to any decision; and
- (b) if so, the length of the period to be so specified.

(1B) The information and evidence required under paragraph (1A) shall be furnished within 1 month of the Secretary of State notifying the claimant of the requirement, or within such longer period as the Secretary of State considers reasonable in the claimant’s case.

(1C) In the case of a claimant making a claim for state pension credit in the advance period, time begins to run for the purposes of paragraphs (1) and (1B) on the day following the end of that period.◀

(2) ▶<sup>7</sup>Subject to paragraph (7),◀ 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 [▶<sup>5</sup>Board◀] may require the partner other than the ▶<sup>5</sup>claimant to do either or both of the following, within one month of being required to do so or such longer period as the Board may consider reasonable—

<sup>7</sup>Words inserted in 7(2) by reg. 2(6)a of S.I. 1996/1460 as from 7.10.96.

- (a) 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;
- (b) to furnish such certificates, documents, information and evidence in connection with the claim, or any question arising out of it, as the Board may require.◀]

(3) In the case of a claim for ▶<sup>8</sup>working families’ tax credit◀ or ▶<sup>8</sup>disabled person’s tax credit◀, the employer of the claimant or, as the case may be, of the partner shall [▶<sup>5</sup>within one month of being required to do so or such longer period as the Board may consider reasonable◀] 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 [▶<sup>5</sup>Board◀].

<sup>8</sup>Words substituted in reg. 7(3) by regs. 24 & 25 of S.I. 1999/2572 as from 5.10.99.

(a) 1992 c. 5. Section 2A was inserted by section 57 of the Welfare Reform and Pensions Act 1999 (c. 30).

**Reg. 7**

<sup>1</sup>Reg. 7(4)–(6) added by reg. 10(3) of S.I. 1995/2303 as from 2.10.95.

<sup>2</sup>Words substituted in reg. 7(4) and reg. 7(8) & 7(9) inserted by regs. 24 & 25 and 6(6) of S.I. 1999/2572 as from 5.10.99.

<sup>3</sup>Words substituted in reg. 7(4) by reg. 5(b) of S.I. 2002/3019 as from 7.4.03.

<sup>4</sup>Words substituted in reg. 7(4) by reg. 15 of S.I. 2008/1554 as from 27.7.08.

<sup>5</sup>Words substituted in reg. 7(4) by reg. 3 of S.I. 2010/641 as from 6.4.10.

<sup>6</sup>For tax credit purposes only, the words in square brackets substituted & inserted in reg. 7 by S.I. 1999/2572 as from 5.10.99.

<sup>7</sup>Words substituted in reg. 7(6)(b) by reg. 5(3) of S.I. 2017/1015 as from 16.11.17.

<sup>8</sup>Reg. 7(7) inserted by reg. 2(6)(c) of S.I. 1996/1460 as from 7.10.96.

▶<sup>1</sup>(4) In the case of a person who is claiming ▶<sup>2</sup>disabled person's tax credit◀, ▶<sup>2</sup>working families' tax credit◀, income support, ▶<sup>3</sup>jobseeker's allowance ▶<sup>4</sup>state pension credit or employment and support allowance◀ where that person or any partner ▶<sup>5</sup>has attained the qualifying age◀ and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, he shall where the [▶<sup>6</sup>Board so require, within one month of being required to do so or such longer period as the Board may consider reasonable◀] Secretary of State so requires furnish the following information–

- (a) the name and address of the pension fund holder;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme or retirement annuity contract to be identified.

(5) Where the pension fund holder received from the Secretary of State [▶<sup>6</sup>Board◀] a request for details concerning the personal pension scheme or retirement annuity contract relating to a person or any partner to whom paragraph (4) refers, the pension fund holder shall [▶<sup>6</sup>, within one month of the request or such longer period as the Board may consider reasonable,◀] provide the Secretary of State [▶<sup>6</sup>Board◀] with any information to which paragraph (6) refers.

(6) The information to which this paragraph refers is–

- (a) where the purchase of an annuity under a personal pension scheme has been deferred, the amount of any income which is being withdrawn from the personal pension scheme;
- (b) in the case of–
  - (i) a personal pension scheme where income withdrawal is available, the ▶<sup>7</sup>rate of the annuity which may have been purchased with the funds held under the scheme◀; or
  - (ii) a personal pension scheme where income withdrawal is not available, or a retirement annuity contract, the ▶<sup>7</sup>rate of the annuity which might have been purchased with the fund◀ if the fund were held under a personal pension scheme where income withdrawal was available,

calculated by or on behalf of the pension fund holder by means of tables prepared from time to time by the Government Actuary which are appropriate for this purpose.◀

▶<sup>8</sup>(7) Paragraphs (1) and (2) do not apply in the case of jobseeker's allowance.◀

▶<sup>2</sup>(8) Every person providing childcare in respect of which a claimant to whom regulation 46A of the Family Credit (General) Regulations 1987(a) applies is incurring relevant childcare charges, including a person providing childcare on behalf of a school, local authority, childcare scheme or establishment within paragraph (2)(b), (c) or (d) of that regulation, shall furnish such certificates, documents, information and evidence in connection with the claim made by the claimant, or any question arising out of it, as may be required by the Board, and shall do so within one month of being required to do so or such longer period as the Board may consider reasonable.

(9) In paragraph (8) “relevant childcare charges” has the meaning given by regulation 46A(2) of the Family Credit (General) Regulations 1987.◀

(a) S.I. 1987/1973; the reg. 13A inserted in S.I. 1987/1973 by S.I. 1994/1924 and amended by S.I. 1995/516, 1996/2545 and 1997/2793 was renumbered reg. 46A and further amended by S.I. 1999/2487.

## Regs. 8-9

**Attendance in person****8.—(1) ▶<sup>1</sup>◀**

(2) Every person who makes a claim for benefit ▶<sup>2</sup>(other than a jobseeker's allowance)◀ shall attend at such office or place and on such days and at such times as the Secretary of State ▶<sup>3</sup>or the Board◀ may direct, for the purpose of furnishing certificates, documents, information and evidence under regulation 7, if reasonably so required by the Secretary of State ▶<sup>3</sup>or the Board◀.

<sup>1</sup>Reg. 8(1) deleted by reg. 2(7)(a) of S.I. 1996/1460 as from 7.10.96.

<sup>2</sup>Words inserted in reg. 8(2) by reg. 2(7)(b) of S.I. 1996/1460 as from 7.10.96.

<sup>3</sup>Words inserted in reg. 8(2) by reg. 20 of S.I. 1999/2572 as from 5.10.99.

**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 ▶<sup>4</sup>or the Board◀ as a claim alternatively, or in addition, to the benefit specified opposite to it in that column.

<sup>4</sup>Words inserted in reg. 9(1) by regs. 20 and 22 of S.I. 1999/2572 as from 5.10.99.

(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 ▶<sup>5</sup>◀ 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.

<sup>5</sup>Words in reg. 9(3) deleted by reg. 19 of S.I. 1996/1803 as from 7.4.97.

(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.

▶<sup>6</sup>(7) In determining whether he ▶<sup>7</sup>or they◀ should treat a claim alternatively or in addition to another claim (the original claim) under this regulation the Secretary of State ▶<sup>7</sup>or the Board◀ shall treat the alternative or additional claim, whenever made, as having been made at the same time as the original claim.◀

<sup>6</sup>Reg. 9(7) added by reg. 12 of S.I. 1992/247 as from 9.3.92.

<sup>7</sup>Words inserted in reg. 9(7) by regs. 20 & 22 of S.I. 1999/2572 as from 5.10.99.

**Regs. 10-11**

<sup>1</sup>Heading to, and words in para. (1) of reg. 10 substituted by reg. 3 of S.I. 1994/2943 as from 13.4.95.

<sup>2</sup>Words in heading to reg. 10 and para. (1A) of reg. 10 inserted by reg. 16(a) & (b) of S.I. 2008/1554 as from 27.7.08.

►<sup>1</sup>**Claim for incapacity benefit**►<sup>2</sup>, **severe disablement allowance or employment and support allowance**◄ where no entitlement to statutory sick pay or statutory maternity pay◄

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

►<sup>2(1A)</sup> Paragraph (2) also applies to a claim for an employment and support allowance for a period of limited capability for work in relation to which the claimant gave his employer a notice of incapacity under regulation 7 of the Statutory Sick Pay (General) Regulations 1982(b), 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) ►<sup>3</sup>◄

<sup>3</sup>Reg. 10(2)(b) deleted by reg. 4 of S.I. 1997/793 as from 7.4.97.

(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(c) 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 ►<sup>4</sup>three months◄ of being informed in writing that she was not entitled to statutory maternity pay; or
- (b) ►<sup>5</sup>◄

<sup>4</sup>Words in reg. 10(4)(a) substituted by reg. 4(b)(i) of S.I. 1997/793 as from 7.4.97.

<sup>5</sup>Reg. 10(4)(b) deleted by reg. 4(b)(ii) of S.I. 1997/793 as from 7.4.97.

**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(d) 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 ►<sup>6</sup>incapacity benefit◄►<sup>7</sup>, severe disablement allowance or an employment and support 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 actual date of confinement.

<sup>6</sup>Words in reg. 11(1) and (2) substituted by reg. 4 of S.I. 1994/2943 as from 13.4.95.

<sup>7</sup>Words substituted in reg. 11(1) by reg. 17(a) of S.I. 2008/1554 as from 27.7.08.

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

(b) S.I. 1982/894.

(c) S.I. 1986/1960.

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

(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 ►<sup>1</sup>three months◄ of that date., her claim may be treated in the alternative or in addition as a claim for ►<sup>1</sup>incapacity benefit◄<sup>2</sup>, severe disablement allowance or an employment and support allowance,◄ for the period beginning with the date of her confinement and ending 14 days after that date.

[Regulation 12 (self-certified claims for first 7 days of a spell of incapacity for work deleted by regulation 2(4) of S.I. 1989/136 as from 27.2.89.]

### Advance claims and awards

**13.—(1)** Where, although a person does not satisfy the requirements of entitlement to benefit on the date on which a claim is made, the ►<sup>3</sup>Secretary of State◄ 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 ►<sup>3</sup>the Secretary of State◄ 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) ►<sup>3</sup>A decision pursuant to paragraph (1)(b) to award benefit may be revised under section 9 of the Social Security Act 1998◄ if the requirements for entitlement are found not to have been satisfied on the relevant day.

(3) ►<sup>4</sup>►<sup>5</sup>◄ paragraphs (1) and (2) do not◄ apply to any claim for maternity allowance, allowance allowance, ►<sup>5</sup>◄, ►<sup>6</sup>state pension credit◄ retirement pension or increase, ►<sup>7</sup>state pension under Part 1 of the Pension Act 2014,◄ ►<sup>8</sup>a shared additional pension◄ ►<sup>5</sup>◄ ►<sup>9</sup>disability living allowance◄, or any claim within regulation 11(1)(a) or (b).

►<sup>5</sup>◄(4)-(8)

►<sup>5</sup>(9) Paragraphs (1) and (2) do not apply to—

- (a) a claim for income support made by a person from abroad as defined in regulation 21AA of the Income Support (General) Regulations 1987(a) (special cases: supplemental-persons from abroad); ►<sup>10</sup>◄
- (b) a claim for a jobseeker’s allowance made by a person from abroad as defined in regulation 85A of the Jobseeker’s Allowance Regulations (b) (special cases: supplemental-persons from abroad)◄ ►<sup>10</sup>and
- (c) a claim for an employment and support allowance made by a person from abroad as defined in regulation 70 of the Employment and Support Allowance Regulations (special cases: supplemental – persons from abroad).◄

### ►<sup>11</sup>Advance award of disability living allowance

**13A.—(1)** Where, although a person does not satisfy the requirements for entitlement to disability living allowance on the date on which the claim is made, the ►<sup>12</sup>Secretary of State◄ 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 ►<sup>12</sup>Secretary of State◄ may award disability living allowance from the relevant day subject to the condition that the person satisfies the requirements for entitlement on the relevant day.

<sup>1</sup>Words in reg. 11(2) substituted by reg. 4 of S.I. 1994/2943 as from 13.4.95.

<sup>2</sup>Words substituted in reg. 11(2) by reg. 17(b) of S.I. 2008/1554 as from 27.7.08.

<sup>3</sup>Words in reg. 13(1) & (2) substituted by para. 2(a) of Sch. 7 to S.I. 1999/2422 as from 6.9.99 and all other benefits by para. 4(a) of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

<sup>4</sup>Words in reg. 13(3) substituted by reg. 3(2) of S.I. 1994/2319 as from 3.10.94.

<sup>5</sup>In reg. 13, words deleted in (3), (4)-(8) omitted and (9) inserted by reg. 2 of S.I. 2007/1331 as from 23.5.07.

<sup>6</sup>Words in reg. 13(3) inserted by reg. 6(1) of S.I. 2002/3019 as from 6.10.03.

<sup>7</sup>Words in reg. 13(3) inserted by art. 9(6) of S.I. 2015/1985 as from 6.4.16.

<sup>8</sup>Words inserted in reg. 13(3) by reg. 2(5) of S.I. 2005/1551 as from 6.7.05.

<sup>9</sup>Words inserted into reg. 13(3) by reg. 6(b) of S.I. 1991/2741 as from 10.3.92.

<sup>10</sup>Word “or” omitted after sub-para. (a) & sub-para. (c) added to reg. 13(9) by reg. 18(a) & (b) of S.I. 2008/1554 as from 27.7.08.

<sup>11</sup>Reg. 13A inserted by reg. 7(1) of S.I. 1991/2741 as from 3.2.92.

<sup>12</sup>Words substituted in para. (1) of reg. 13A by para. 4 of Sch. 3 to S.I. 1999/2860 as from 18.10.99 & by para. 5(a) of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

(a) S.I. 1987/1967. Regulation 21AA was inserted by S.I. 2006/1026.

(b) S.I. 1996/207. Regulation 85A was inserted by S.I. 2006/1026 and amended by S.I. 2006/2528 and 3341.

## Regs. 13A-13D

(2) Where a person makes a claim for disability living allowance on or after 3rd February 1992 and before 6th April 1992 the adjudicating authority may award benefit for a period beginning on any day after 5th April 1992 being a day not more than three months after the date on which the claim was made, subject to the condition that the person satisfies the requirements for entitlement when disability living allowance becomes payable under the award.

<sup>1</sup>Words substituted in reg. 13A(3) by para. 5(b) of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

(3) <sup>1</sup>A decision pursuant to paragraph (1) or (2) to award benefit may be revised under section 9 of the Social Security Act 1998<sup>1</sup> if the requirements for entitlement are found not to have been satisfied when disability living allowance becomes payable under the award.◀

<sup>2</sup>Reg. 13B inserted by reg. 7(2) of S.I. 1991/2741 as from 10.3.92.

**▶<sup>2</sup>Advance claim for and award of disability working allowance**

**13B.**—(1) Where a person makes a claim for disability working allowance on or after 10th March 1992 and before 7th April 1992 the adjudicating authority may—

- (a) treat the claim as if it were made for a period beginning on 7th April 1992; and
- (b) award benefit accordingly, subject to the condition that the person satisfies the requirements for entitlement on 7th April 1992.

(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 7th April 1992.◀

<sup>3</sup>Reg. 13C inserted by reg. 8 of S.I. 1991/2741 as from 3.2.92.

**▶<sup>3</sup>▶<sup>4</sup>Further claim for and award of disability living allowance or attendance allowance**

<sup>4</sup>Heading & para. 13C(1) substituted by reg. 7(5) of S.I. 2005/337 as from 18.3.05.

**13C.**—(1) A person entitled to an award of disability living allowance or attendance allowance may make a further claim for disability living allowance or attendance allowance, as the case may be, during the period of 6 months immediately before the existing award expires.◀

<sup>5</sup>Words substituted in of reg. 13C(2) by para. 5 of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

(2) Where a person makes a claim in accordance with paragraph (1) the <sup>5</sup>Secretary of State◀ may—

- (a) treat the claim as if made on the first day after the expiry of the existing award (“the renewal date”); and
- (b) award benefit accordingly, subject to the condition that the person satisfies the requirements for entitlement on the renewal date.

<sup>6</sup>Words substituted in reg. 13C(3) by para. 6 of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

(3) <sup>6</sup>A decision pursuant to paragraph (2)(b) to award benefit may be revised under section 9 of the Social Security Act 1998◀ if the requirements for entitlement are found not to have been satisfied on the renewal date.◀

<sup>7</sup>Reg. 13D inserted by reg. 6(2) of S.I. 2002/3019 as from 6.10.03.

**▶<sup>7</sup>Advance claims for and awards of state pension credit**

**13D.**—(1) Paragraph (2) applies if—

- (a) a person does not satisfy the requirements for entitlement to state pension credit on the date on which the claim is made; and
- (b) the Secretary of State is of the opinion that unless there is a change of circumstances he will satisfy those requirements—
  - (i) where the claim is made in the advance period, when he attains the qualifying age; or
  - (ii) in any other case, within 4 months of the date on which the claim is made.

(2) Where this paragraph applies, the Secretary of State may—

- (a) treat the claim as made for a period beginning on the day (“the relevant day”) the claimant—
  - (i) attains the qualifying age, where the claim is made in the advance period; or
  - (ii) is likely to satisfy the requirements for entitlement in any other case; and

(b) if appropriate, award state pension credit accordingly, subject to the condition that the person satisfies the requirements for entitlement on the relevant day.

(3) An award under paragraph (2) may be revised under section 9 of the Social Security Act 1998<sup>(a)</sup> if the claimant fails to satisfy the conditions for entitlement to state pension credit on the relevant day.◀

▶<sup>1</sup>(4) This regulation does not apply to a claim made by a person not in Great Britain as defined in regulation 2 of the State Pension Credit Regulations<sup>(b)</sup> (persons not in Great Britain).◀

<sup>1</sup>Reg. 13D(4) inserted by reg. 2 of S.I. 2007/1331 as from 23.5.07.

#### 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 dependent, 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 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, ▶<sup>2</sup>or a state pension under Part 1 of the Pensions Act 2014◀▶<sup>3</sup>or a shared additional 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.

<sup>2</sup>Words in reg. 15(1) & (7) inserted & substituted by art. 9(7) of S.I. 2015/1985 as from 6.4.16.

[Regulations 15(2)–(4) lapsed on repeal (1.10.89) of s. 27(4) of the Social Security Act 1975 (c. 14), subject to a saving (in regulation 2(4) of S.I. 1989/1642) which became spent on 1.10.90.]

<sup>3</sup>Words inserted in reg. 15(1) by reg. 2(6) of S.I. 2005/1551 as from 6.7.05.

▶<sup>4</sup>(5) Where a person claims a Category A or Category B retirement pension and is, or but for that claim would be, in receipt of ▶<sup>5</sup>incapacity benefit◀▶<sup>6</sup>◀ for a period which includes the first day to which the claim relates, then if that day is not the appropriate day for the payment of retirement pension in his case, the claim shall be treated as if the first day of the claim was instead the next following such pay day.◀

<sup>4</sup>Reg. 15(5) substituted by reg. 2(2) of S.I. 1989/1642 as from 1.10.89, subject to saving in reg. 2(4) *ibid.*

▶<sup>7</sup>(6) Where the spouse ▶<sup>8</sup>or civil partner◀ of such a person as is mentioned in paragraph (5) above claims a Category A or Category B retirement pension and the first day of that claim is the same as the first day of the claim made by that person, the provisions of that paragraph shall apply also to the claim made by the spouse ▶<sup>8</sup>or civil partner◀◀

<sup>5</sup>Words in reg. 15(5) substituted by reg. 5 of S.I. 1994/2943 as from 13.4.95.

<sup>6</sup>Words deleted in reg. 15(5) by reg. 2(8) of S.I. 1996/1460 as from 7.10.96.

(7) For the purposes of facilitating the determination of a subsequent claim for a Category A, B or C retirement pension ▶<sup>2</sup>or a state pension under Part 1 of the Pensions Act 2014◀, 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 ▶<sup>9</sup>intends to defer his entitlement to a Category A or Category B retirement pension ▶<sup>2</sup>or a state pension under Part 1 of the Pensions Act 2014◀◀ 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 ▶<sup>2</sup>or the pension Act 2014◀ relating to that person's title to such a ▶<sup>2</sup>pension◀▶<sup>9</sup>◀, and subject to the necessary modifications, the provisions of these regulations shall apply to any such particulars.

<sup>7</sup>Reg. 15(6) substituted by reg. 2(2) of S.I. 1989/1642 as from 1.10.89, subject to saving in reg. 2(4) *ibid.*

<sup>8</sup>Words inserted in reg. 15(6) by para. 14(6) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>9</sup>Words substituted and deleted in reg. 15(7) by reg. 2(3) of S.I. 1989/1642 as from 1.10.89, subject to saving in reg. 2(4) *ibid.*

[Regulation 15A (cold weather payments) deleted by regulation 8 of S.I. 1991/2284 as from 1.11.91.]

(a) 1998 c. 14.

(b) S.I. 2002/1792 Regulation 2 was substituted by S.I. 2006/1026 and amended by S.I. 2006/2528 and 3341.

**Regs. 15B-16**

<sup>1</sup>Reg. 15B substituted by reg. 2(7) of 2005/1551 as from 6.7.05.

<sup>2</sup>Reg. 15B renumbered as reg. 15B(1) & para. (2) inserted by art. 9(8)(b) of S.I. 2015/1985 as from 6.4.16.

**►<sup>1</sup>Advance claim for pension following deferment**

**15B.**►<sup>2</sup>—(1)◀ Where a person's entitlement to a Category A or Category B retirement pension or a shared additional pension is deferred in accordance with section 55(3) of the Contributions and Benefits Act(a) (pension increase or lump sum where entitlement to retirement pension is deferred) or section 55C(3) (pension increase or lump sum where entitlement to shared additional pension is deferred) thereof (as the case may be) a claim for—

- (a) a Category A or Category B retirement pension;
- (b) any increase in that pension, and
- (c) a shared additional pension,

may be made at any time not more than 4 months before the date on which the period of deferment, within the meaning of section 55(3) or section 55C(3) (as the case may be), ends.◀

►<sup>2</sup>(2) Where a person's entitlement to a state pension under Part 1 of the Pensions Act 2014 is deferred in accordance with sections 16 and 17 of that Act (option to defer and effect of deferring a state pension), a claim for such a state pension may be made at any time not more than 4 months before the date on which the period during which the person's entitlement to a state pension was deferred ends.◀

**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.

►<sup>3</sup>(1A) Where a claim for ►<sup>4</sup>working families' tax credit◀ is made in accordance with paragraph 7(a) ►<sup>3</sup>or (aa)◀ of Schedule 4 for a period following the expiration of an existing award of ►<sup>4</sup>working families tax credit◀, ►<sup>5</sup>or ►<sup>4</sup>disabled person's tax credit◀,◀ entitlement shall begin on the day after the expiration of that award.

(1B) Where a claim for ►<sup>4</sup>working families tax credit◀►<sup>5</sup>or ►<sup>4</sup>disabled person's tax credit◀◀ is made on or after the date when an uprating order is made under ►<sup>6</sup>section 150 of the Social Security Administration Act 1992◀, but before the date when that order comes into force, and—

- (a) 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
- (b) 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,

entitlement shall begin from the date the up-rating order comes into force.◀

►<sup>7</sup>(1C) Where a claim for ►<sup>4</sup>disabled person's tax credit◀ is made in accordance with paragraph 11(a) or (b) of Schedule 4 for a period following the expiration of an existing award of ►<sup>4</sup>disabled person's tax credit◀ or ►<sup>4</sup>working families tax credit◀, entitlement shall begin on the day after the expiration of that award.◀

►<sup>8</sup>(1D) Except in a case where regulation 22D(1) or (2) applies, for the purpose only of determining the day from which retirement pension payable in arrears under regulation 22C is to become payable, where entitlement would otherwise begin on a day which is not the first day of the benefit week, entitlement shall begin on the first day of the benefit week next following.◀

►<sup>9</sup>(1E) Except in a case where regulation 22DA applies, for the purpose only of determining the day from which state pension under Part 1 of the Pensions Act 2014 payable in arrears under regulation 22CA is to become payable, where entitlement would otherwise begin on a day which is not for the first day of the benefit week, entitlement shall begin on the first day of the benefit week next following.◀

<sup>3</sup>Reg. 16(1A) and (1B) inserted by reg. 3(1) of S.I. 1988/522 as from 11.4.88.

<sup>4</sup>Words substituted in reg. 16(1A), (1B) & (1C) by regs. 24 and 25 of S.I. 1999/2572 as from 5.10.99.

<sup>5</sup>Words inserted into reg. 16(1A) & (1B) by reg. 9(a) of S.I. 1991/2741 as from 10.3.92.

<sup>6</sup>Words substituted in reg. 16(1B) by reg. 8 of S.I. 1999/2572 as from 5.10.99.

<sup>7</sup>Reg. 16(1C) inserted by reg. 9(c) of S.I. 1991/2741 as from 10.3.92.

<sup>8</sup>Reg. 16(1D) inserted by reg. 2(3)(a) of S.I. 2009/3229 as from 6.4.10.

<sup>9</sup>Reg. 16(1E) inserted by art. 9(9)(a) of S.I. 2015/1985 as from 6.4.16.

(a) Sections 55 and 55C were substituted by s. 297 of the Pensions Act 2004 (c. 35).



## Reg. 16

(2) Where there is a change in the rate of any benefit to which paragraph (1) applies ►<sup>1</sup>(other than widowed mother's allowance and widow's pension)◄ the change, if it would otherwise take effect on a day which is not the ►<sup>1</sup>first day of the benefit week◄ for that benefit, shall take effect from the ►<sup>1</sup>first day of the benefit week◄ next following.

►<sup>1</sup>(2A) Subject to paragraph (2B), where there is a change in the rate of ►<sup>2</sup>◄ widowed mother's allowance, widowed parent's allowance or widow's pension, the change, if it would otherwise take effect on a day which is not the first day of the benefit week, shall take effect from the first day of the benefit week next following.

(2B) Paragraph (2A) shall not apply in a case where an award of benefit is terminated and benefit is paid in arrears.

(2C) Where a benefit specified in paragraph (2A) is paid in advance and the award is terminated, the termination, if it would otherwise take effect on a day which is not the first day of a benefit week, shall take effect on the first day of the benefit week next following.◄

►<sup>3</sup>(2D) ►<sup>4</sup>Where an award of retirement pension◄ is terminated due to the death of the beneficiary, the termination shall take effect on the first day of the benefit week next following the date of death.

(2E) Except in a case where regulation ►<sup>4</sup>paragraph (2F) or◄ 22D(2) applies, where a retirement pension is paid in arrears under regulation 22C and there is a change in the rate of that benefit, the change, if it would otherwise take effect on a day which is not the first day of the benefit week, shall take effect from the start of the benefit week in which the change occurs.◄

►<sup>4</sup>(2F) Except in a case where regulation 22D(2) applies, where a retirement pension is paid in arrears under regulation 22C and a change in the rate of that benefit takes effect under an order made under section 150 or 150A of the 1992 Act(a) (annual up-rating of benefits, basic pension etc.) the change, if it would otherwise take effect on a day which is not the first day of the benefit week, shall take effect on the first day of the benefit week next following.◄

►<sup>5</sup>(2G) Except in a case where paragraph (2H) applies, where—

- (a) a state pension under Part 1 of the Pensions Act 2014 is paid in arrears under regulation 22CA; and
- (b) there is a change in the rate of that benefit,

the change, if it would otherwise take effect on a day which is not the first day of the benefit week, shall take effect from the start of the benefit week on which the change occurs.

(2H) Where—

- (a) a state pension under Part 1 of the Pensions Act 2014 is paid in arrears under regulation 22CA; and
- (b) a change in the rate of that benefit takes effect under an Order made under section 150, 150A or 151A of the 1992 Act,

the change, if it would otherwise take effect on a day which is not the first day of the benefit week, shall take effect on the first day of the benefit week next following.◄

►<sup>6</sup>(3) For the purposes of this regulation the first day of the benefit week—

- (a) in the case of child benefit ►<sup>7</sup>and guardian's allowance◄ is Monday,

<sup>1</sup>Words inserted & substituted in para. (2), paras. (2A), (2B) & (2C) inserted in reg. 16 by reg. 2(2)(a)-(b) of S.I. 2009/604 as from 6.4.09.

<sup>2</sup>Words in reg. 16(2A) omitted by art. 10(6)(a) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

<sup>3</sup>Regs. 16(2D) & (2E) inserted by reg. 2(3)(a)-(b) of S.I. 2009/3229 as from 6.4.10.

<sup>4</sup>Words in reg. 16(2D) and (2E) substituted & inserted & para. (2F) inserted by reg. 3(3) & (4) of S.I. 2010/510 as from 6.4.10.

<sup>5</sup>Reg. 16(2G) & (2H) inserted by art. 9(9)(b) of S.I. 2015/1985 as from 6.4.16.

<sup>6</sup>Reg. 16(3) substituted by reg. 3(2) of S.I. 1988/522 as from 11.4.88.

<sup>7</sup>Words inserted into reg. 16(3)(a) by reg. 2(3) of S.I. 1999/2358 as from 20.9.99.

(a) Section 150A of the 1992 Act was inserted by section 5(1) of the Pensions Act 2007 (c. 22).

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<sup>1</sup>Words substituted in reg. 16(3) by regs. 24 and 25 of S.I. 1999/2572 as from 5.10.99.

<sup>2</sup>Words inserted into reg. 16(3)(b) by reg. 9(a) of S.I. 1991/2741 as from 10.3.92.

<sup>3</sup>Para. (3)(c) substituted in reg. 16 & words inserted in 16(4) by reg. 2(2)(c)-(d) of S.I. 2009/604 as from 6.4.09.

<sup>4</sup>Words in reg. 16(3)(c)(i) & (4) substituted by art. 10(6)(b)(c) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

<sup>5</sup>Words substituted in reg. 16(3)(c)(ii) and (4) by reg. 2(3)(c) and (d) of S.I. 2009/3229 as from 6.4.10.

<sup>6</sup>Words in paras. (3)(c)(ii) & (4) substituted & inserted by art. 9(9)(c)-(d) of S.I. 2015/1985 as from 6.4.16.

<sup>7</sup>Words substituted in reg. 16(4) by reg. 2(9) of S.I. 1996/1460 as from 7.10.96.

<sup>8</sup>Words in reg. 16(4) substituted by reg. 6 of S.I. 1994/2943 as from 13.4.95.

<sup>9</sup>Words inserted in reg. 16(4) by reg. 19 of S.I. 2008/1554 as from 27.7.08.

<sup>10</sup>Words in reg. 16(4) deleted by reg. 3(3) of S.I. 1988/522 as from 11.4.88.

<sup>11</sup>Words in reg. 16(4) & reg. 16A inserted by regs. 7(1) & (2) of S.I. 2002/3019 as from 6.10.03.

<sup>12</sup>Words substituted in reg. 16A(2)(a) by reg. 20 of S.I. 2008/1554 as from 27.7.08.

<sup>13</sup>Words added to reg. 16A by reg. 29(3) of S.I. 2013/630 as from 29.4.13.

<sup>14</sup>Para. (4) substituted by reg. 3(4) of S.I. 2010/510 as from 6.4.10.

<sup>15</sup>Words inserted into 17(1) by reg. 9(d), 10(b) & (c) of S.I. 1991/2741 as from 10.3.92.

<sup>16</sup>Words substituted in reg. 17(1) by regs. 24 & 25 of S.I. 1999/2572 as from 5.10.99.

(b) in the case of ►<sup>1</sup>working families tax credit◄ ►<sup>2</sup>or ►<sup>1</sup>disabled person's tax credit◄◄ is Tuesday, and

►<sup>3</sup>(c) in any other case is—

(i) when paid in advance, the day of the week on which the benefit is payable in accordance with regulation 22 (long-term benefits) or 22A ►<sup>4</sup>(bereavement support payment◄, widowed mother's allowance, widowed parent's allowance and widow's pension);

(ii) when paid in arrears, the first day of the period of 7 days which ends on the day on which the benefit is payable in accordance with ►<sup>5</sup>regulation 22, 22A or►<sup>6</sup>, 22C or 22CA◄◄.◄

(4) The benefits specified for the exclusion from the scope of paragraph (1) are ►<sup>7</sup>jobseeker's allowance◄, ►<sup>8</sup>incapacity benefit◄◄<sup>9</sup>, employment and support allowance◄, maternity allowance, ►<sup>10</sup>severe disablement allowance, income support►<sup>11</sup>, state pension credit◄◄<sup>3</sup>, ►<sup>4</sup>bereavement support payment◄, widowed parent's allowance►<sup>5</sup>, retirement pension payable in arrears under regulation 22C►<sup>6</sup>, state pension under Part 1 of the Pensions Act 2014 payable in arrears under regulation 22CA◄◄◄◄►<sup>10</sup>◄ and any increase of those benefits.

### ►<sup>11</sup>Date of entitlement under an award of state pension credit for the purpose of payability and effective date of change of rate

**16A.**—(1) For the purpose only of determining the day from which state pension credit is to become payable, where the credit is awarded from a day which is not the first day of the claimant's benefit week, entitlement shall begin on the first day of the benefit week next following.

(2) In the case of a claimant who—

(a) immediately before attaining the qualifying age was entitled to income support►<sup>12</sup>, ►<sup>13</sup>universal credit,◄ income-based jobseeker's allowance or income-related employment and support allowance◄ and is awarded state pension credit from the day on which he attains the qualifying age; or

(b) was entitled to an income-based jobseeker's allowance ►<sup>13</sup>or universal credit◄ after attaining the qualifying age and is awarded state pension credit from the day which falls after the date that entitlement ends,

entitlement to the guarantee credit shall, notwithstanding paragraph (1), begin on the first day of the award.

(3) Where a change in the rate of state pension credit would otherwise take effect on a day which is not the first day of the claimant's benefit week, the change shall take effect from the first day of the benefit week next following.

►<sup>14</sup>(4) For the purpose of this regulation, "benefit week" means—

(a) where state pension credit is paid in advance, the period of 7 days beginning on the day on which, in the claimant's case, that benefit is payable;

(b) where state pension credit is paid in arrears, the period of 7 days ending on the day on which, in the claimant's case, that benefit is payable.◄

### Duration of awards

**17.**—(1) Subject to the provisions of this regulation and section ►<sup>15</sup>37ZA(3) of the Social Security Act 1975(a) (disability living allowance) and section◄ 20(6) ►<sup>15</sup>and (6F)(b)◄ of the Social Security Act 1986 (►<sup>16</sup>working families tax credit◄►<sup>15</sup>and◄ ►<sup>16</sup>disabled person's tax 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.

(a) S. 37ZA was inserted into the Social Security Act 1975 by s. 1 of the Disability Living Allowance and Disability Working Allowance Act 1991.

(b) Subsection (6F) was inserted into S. 20 of the Social Security Act 1986 by s. 6(4) of the Disability Living Allowance and Disability Working Allowance Act 1991.

## Regs. 17-19

►<sup>1</sup>(1A) Where an award of income support or an income-based jobseeker's allowance is made in respect of ►<sup>2</sup>a couple◄ and one member of the couple is, at the date of claim, a person to whom section 126 of the Contributions and Benefits Act or, as the case may be, section 14 of the Jobseekers Act applies, the award of benefit shall cease when the person to whom section 126 or, as the case may be, section 14 applies returns to work with the same employer.◄

(2) ►<sup>1</sup>◄

(3) ►<sup>3</sup>Except in the case of claims for and awards of state pension credit,◄ if ►<sup>1</sup>◄, 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; ►<sup>4</sup>◄

(5) The provisions of Schedule 2 shall have effect in relation to claims for ►<sup>1</sup>a jobseeker's allowance◄ made during periods connected with public holidays.

18. ►<sup>5</sup>◄

►<sup>6</sup>Time for claiming benefit

19.—(1) Subject to the following provisions of this regulation, the prescribed time for claiming any benefit specified in column (1) of Schedule 4 is the appropriate time specified opposite that benefit in column (2) of that Schedule.

(2) The prescribed time for claiming the benefits specified in paragraph (3) is three months beginning with any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to the benefit concerned.

(3) The benefits to which paragraph (2) applies are—

- (a) child benefit;
- (b) guardian's allowance;
- (c) ►<sup>7</sup>◄
- (d) invalid care allowance ►<sup>8</sup>or carer's allowance◄;
- (e) maternity allowance;
- (f) ►<sup>7</sup>◄
- (ff) ►<sup>9</sup>◄
- (g) widow's benefit;

►<sup>10</sup>(ga) subject to paragraphs (3B), widowed parent's allowance;

(gb) subject to paragraph (3BA), bereavement support payment;◄

(h) ►<sup>11</sup>◄ any increase in any benefit (other than income support or jobseeker's allowance) in respect of a child or adult dependant.

►<sup>12</sup>(i) state pension credit.◄

►<sup>10</sup>(3A)◄

►<sup>13</sup>(3B) The time prescribed for claiming ►<sup>10</sup>, widowed parent's allowance;◄ in respect of the day on which the claimant's spouse ►<sup>14</sup>or civil partner◄ has died or may be presumed to have died where—

- (a) less than 12 months have elapsed since the day of the death; and
- (b) the circumstances are as specified in section 3(1)(b) of the Social Security Administration Act 1992(a) (death is difficult to establish),

is that day and the period of 12 months immediately following that day if the other conditions of entitlement are satisfied.◄

►<sup>10</sup>(3BA) The prescribed time for claiming bereavement support payment in respect of—

- (a) the rate set out in regulation 3(2) or (5) of the Bereavement Support Payment Regulations 2017 (rate of bereavement support payment); and

<sup>1</sup>Reg. 17(1A) substituted, reg. 17(2) deleted & words deleted in reg. 17(3) & substituted in reg. 17(5) by reg. 2(10) of S.I. 1996/1460 as from 7.10.96.

<sup>2</sup>Words substituted in reg. 17(1A) by para. 14(7) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>3</sup>Words in reg. 17(3) inserted by reg. 8(1) of S.I. 2002/3019 as from 6.10.03.

<sup>4</sup>Words deleted in reg. 17(4) by Sch. 6, para. 7 of S.I. 1999/3178 as from 29.11.99.

<sup>5</sup>Reg. 18 deleted by reg. 2(11) of S.I. 1996/1460 as from 7.10.96.

<sup>6</sup>Reg. 19 substituted by reg. 6 of S.I. 1997/793 as from 7.4.97. For retirement pension or graduated retirement benefit as from 4.8.97.

<sup>7</sup>Reg. 19(3)(c) & (f) omitted by reg. 3 of S.I. 2005/455 as from 6.4.06.

<sup>8</sup>Words inserted in reg. 19(3)(d) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

<sup>9</sup>Sub-para. (ff) omitted by reg. 2(a) of S.I. 2004/1821 as from 6.10.04.

<sup>10</sup>Reg. 19(3)(ga) substituted, para. (3A) omitted, words in para. (3B) substituted & para. (3BA) inserted by art. 10(7)(a)-(d) of S.I. 2017/422 as from 6.4.17. See art. 1(2) of this S.I. for when to apply.

<sup>11</sup>Words deleted from sub-para. (3)(h) and inserted in (3A) by reg. 2(a)-(b) of S.I. 2005/777 as from 11.4.05.

<sup>12</sup>Reg. 19(3)(i) inserted by reg. 2(2) of S.I. 2008/2424 as from 6.10.08.

<sup>13</sup>Sub-para. (3B) inserted in reg. 19(3) by reg. 2(c) of S.I. 2005/777 as from 11.4.05.

<sup>14</sup>Words in reg. 19(3B) inserted by reg. 5(3) of S.I. 2005/2878 as from 5.12.05.

(a) Section 3 was substituted by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 8, paragraphs 15 and 17.

## Reg. 19

(b) the date on which the claimant's spouse or civil partner died, is 12 months beginning with the date of death.◀

<sup>1</sup>Reg. 19(3C) inserted by reg. 2(11) of S.I. 2007/2470 as from 24.9.07.

▶<sup>1</sup>(3C) In any case where the application of paragraphs (16) to (34) of regulation 6 would be advantageous to the claimant, this regulation shall apply subject to those provisions.◀

<sup>2</sup>Words substituted in reg. 19(4), inserted in (5)(d) by regs. 10(a), 24 and 25 of S.I. 1999/2572 as from 5.10.99.

<sup>3</sup>Words inserted in reg. 19(4) by reg. 3(2) of S.I. 2002/428 as from 2.4.02.

(4) Subject to paragraph (8), in the case of a claim for income support, jobseeker's allowance, ▶<sup>2</sup>working families' tax credit◀ or ▶<sup>2</sup>disabled persons' tax credit◀, where the claim is not made within the time specified for that benefit in Schedule 4, the prescribed time for claiming the benefit shall be extended, subject to a maximum extension of three months, to the date on which the claim is made, where—

- (a) any ▶<sup>3</sup>one or more◀ of the circumstances specified in paragraph (5) applies or has applied to the claimant; and
- (b) as a result of that circumstance or those circumstances the claimant could not reasonably have been expected to make the claim earlier.

(5) The circumstances referred to in paragraph (4) are—

- (a) the claimant has difficulty communicating because—
  - (i) he has learning, language or literacy difficulties; or
  - (ii) he is deaf or blind,
 and it was not reasonably practicable for the claimant to obtain assistance from another person to make his claim;
- (b) except in the case of a claim for jobseeker's allowance, the claimant was ill or disabled, and it was not reasonably practicable for the claimant to obtain assistance from another person to make his claim;
- (c) the claimant was caring for a person who is ill or disabled, and it was not reasonably practicable for the claimant to obtain assistance from another person to make his claim;
- (d) the claimant was given information by an officer of the ▶<sup>4</sup>Department for Work and Pensions◀ ▶<sup>5</sup>or in a case to which regulation 4A applies, a representative of a relevant authority◀ ▶<sup>2</sup>or of the Board◀ which led the claimant to believe that a claim for benefit would not succeed;
- (e) the claimant was given written advice by a solicitor or other professional adviser, a medical practitioner, a local authority, or a person working in a Citizens Advice Bureau or a similar advice agency, which led the claimant to believe that a claim for benefit would not succeed;
- (f) the claimant or his partner was given written information about his income or capital by his employer or former employer, or by a bank or building society, which led the claimant to believe that a claim for benefit would not succeed;
- (g) the claimant was required to deal with a domestic emergency affecting him and it was not reasonably practicable for him to obtain assistance from another person to make his claim; or
- (h) the claimant was prevented by adverse weather conditions from attending the appropriate office.

<sup>4</sup>Words in reg. 19(5)(d) substituted by para. 18(3) of the Sch. to S.I. 2002/1397 as from 27.6.02.

<sup>5</sup>Words inserted in reg. 19(5)(d) by para. 2(6) of Sch. 3 to S.I. 1999/3108 as from 29.11.99.

(6) In the case of a claim for income support, jobseeker's allowance, ▶<sup>6</sup>working families' tax credit◀ or ▶<sup>6</sup>disabled persons' tax credit◀, ▶<sup>7</sup>where the claim is not made within the time specified for that benefit in Schedule 4, the prescribed time for claiming the benefit shall be extended, subject to a maximum extension of one month, to the date on which the claim is made, where—

- (a) any one or more of the circumstances specified in paragraph (7) applies or has applied to the claimant; and
- (b) as a result of that circumstance or those circumstances the claimant could not reasonably have been expected to make the claim earlier◀,

(7) The circumstances referred to in paragraph (6) are—

- (a) the appropriate office where the claimant would be expected to make a claim was closed and alternative arrangements were not available;
- (b) the claimant was unable to attend the appropriate office due to difficulties with his normal mode of transport and there was no reasonable alternative available;

<sup>6</sup>Words inserted and substituted in reg. 19(6) by regs. 24 & 25 of S.I. 1999/2572 as from 5.10.99.

<sup>7</sup>Words substituted in reg. 19(6) by reg. 3(3) of S.I. 2002/428 as from 2.4.02.

- (c) there were adverse postal conditions;
- (d) the claimant ►<sup>1</sup>or, in the case of income support or jobseeker's allowance, the claimant or his partner ◀ was previously in receipt of another benefit, and notification of expiry of entitlement to that benefit was not sent to the claimant ►<sup>1</sup>or his partner, as the case may be, ◀ before the date that his entitlement expired;
- <sup>2</sup>(e) in the case of a claim for working families' tax credit, the claimant had previously been entitled, or the partner of the claimant had previously been entitled in relation to the claimant, to income support or jobseeker's allowance and the claim for working families' tax credit was made within one month of—
- (i) the expiry of entitlement to income support ignoring any period in which entitlement resulted from the person entitled not being treated as engaged in remunerative work by virtue of ►<sup>3</sup>paragraphs (2) and (3), or paragraphs (5) and (6), of regulation 6(a) ◀ of the Income Support (General) Regulations 1987(b); or
- (ii) the expiry of entitlement to jobseeker's allowance;
- (f) except in the case of a claim for ►<sup>4</sup>working families' tax credit ◀ or ►<sup>4</sup>disabled persons' tax credit ◀, the claimant had ceased to be a member of a married or unmarried couple within the period of one month before the claim was made; ►<sup>5</sup> ◀
- (g) during the period of one month before the claim was made a close relative of the claimant had died, and for this purpose "close relative" means partner, parent, son, daughter, brother or ►<sup>5</sup>sister; or ◀
- <sup>2</sup>(h) in the case of a claim for disabled person's tax credit, the claimant had previously been entitled to income support, jobseeker's allowance, incapacity benefit or severe disablement allowance and the claim for disabled person's tax credit was made within one month of—
- (i) the expiry of entitlement to income support ignoring any period in which entitlement resulted from the claimant not being treated as engaged in remunerative work by virtue of ►<sup>3</sup>paragraphs (2) and (3), or paragraph (5) and (6), of regulation 6 ◀ of the Income Support (General) Regulations 1987; or
- (ii) the expiry of entitlement to jobseeker's allowance, incapacity benefit or severe disablement allowance;
- (ha) in the case of a claim for disabled person's tax credit, the partner of the claimant had previously been entitled in relation to the claimant to income support or jobseeker's allowance, and the claim for disabled person's tax credit was made within one month of—
- (i) the expiry of entitlement to income support ignoring any period in which entitlement resulted from the partner of the claimant not being treated as engaged in remunerative work by virtue of ►<sup>3</sup>paragraphs (2) and (3), or paragraphs (5) and (6), of regulation 6 ◀ of the Income Support (General) Regulations 1987; or
- (ii) the expiry of entitlement to jobseeker's allowance; ◀
- <sup>6</sup>(i) in the case of a claim for a jobseeker's allowance by a member of a joint-claim couple where the other member of that couple failed to attend at the time and place specified by the Secretary of State for the purposes of regulation 6. ◀
- <sup>7</sup>(j) the claimant was unable to make telephone contact with the appropriate office where he would be expected to notify his intention of making a claim because the telephone lines to that office were busy or inoperative. ◀

<sup>1</sup>Words inserted in reg. 7(d) by reg. 3(4) of S.I. 2002/428 as from 2.4.02.

<sup>2</sup>Regs. 19(7)(e) and (h) substituted by reg. 10 of S.I. 2000/2978 as from 28.11.00 with respect to working families' tax credit and disabled person's tax credit.

<sup>3</sup>Words substituted in sub-paras. (e), (h) & (ha) by reg. 4 of S.I. 2001/567 as from 10.4.01, with respect only to working families' tax credit and disabled person's tax credit.

<sup>4</sup>Words inserted & substituted in reg. 19(7)(f) by regs. 24, 25 & Sch. to S.I. 1999/2572 as from 5.10.99.

<sup>5</sup>Words in reg. 19(7)(f) & (g) omitted and substituted by reg. 6(2) of S.I. 1997/2290 as from 13.10.97.

*Transitional arrangements indicated in S.I. 2000/636, reg. 12(1) provide that for words "regulation 21ZB" in reg. 19(8) as substituted by that S.I., the words "regulation 21ZA(2)" shall still apply in certain circumstances.*

- (a) The reference is to regulation 6 of the Income Support (General) Regulations 1987 (S.I. 1987/1967). Paragraphs (2) and (3) of that regulation were added by regulation 2(3) of S.I. 1999/2556 and paragraphs (5) and (6) of that regulation were added by regulation 4 of S.I. 2001/488.
- (b) S.I. 1987/1967; paragraphs (2) and (3) of regulation 6 were added by regulation 2(3) of S.I. 1999/2556.
- (c) S.I. 1987/1967; reg. 21ZA was inserted by S.I. 1996/2431.

<sup>6</sup>Reg. 19(7)(i) inserted by reg. 2(5) of S.I. 2000/1982 as from 19.3.01.

<sup>7</sup>Reg. 19(7)(j) added by reg. 2(4) of S.I. 2006/2377 as from 2.10.06.

**Regs. 20-21A**

<sup>1</sup>Words substituted in reg. 19(8) by reg. 5(4) of S.I. 2000/636 as from 3.4.00.

(8) This regulation shall not have effect with respect to a claim to which ►<sup>1</sup>regulation 21ZB◄ of the Income Support (General) Regulations 1987(c) (treatment of refugees) applies.◄

## PART III PAYMENTS

<sup>2</sup>Reg. 20 substituted, reg. 20A omitted by reg. 2(6), (7) of S.I. 2006/832 as from 10.4.06.

### ►<sup>2</sup>Time of payment: general provision

**20.** Subject to regulations 21 to 26B, benefit shall be paid in accordance with an award as soon as is reasonably practicable after the award has been made.◄

**20A.** ►<sup>2</sup>◄

### Direct credit transfer

<sup>3</sup>Reg. 21(1) substituted by reg. 5(2) of S.I. 2014/2888 as from 26.11.14. (See reg. 1(2) for revised effective dates in some circumstances).

<sup>4</sup>Sub-para. (2) & words in (3) deleted & substituted in (3B) & (3C) by reg. 2 of S.I. 2002/2441 as from 27.9.03.

<sup>5</sup>Words inserted into reg. 21(3) & (3A) by reg. 2(a) & (b) of S.I. 1993/1113 as from 12.5.93.

<sup>6</sup>Words added to reg. 21(3) by reg. 11 of S.I. 1999/2572 as from 5.10.99.

<sup>7</sup>Regs. 21(3B) and (3C) inserted by reg. 2(4) of S.I. 1999/2358 as from 20.9.99.

**21.—**►<sup>3</sup>(1) The Secretary of State may arrange for benefit to be paid by way of direct credit transfer into a bank or other account nominated by the person entitled to benefit or a person acting on their behalf.◄

(2) ►<sup>4</sup>◄

(3) ►<sup>5</sup>Subject to paragraph (3A)◄ benefit shall be paid in accordance with paragraph (1) within seven days of the last day of each successive period of entitlement ►<sup>4</sup>◄<sup>6</sup>or, so far as concerns working families' tax credit, within such time as the Board may direct.◄

►<sup>5</sup>(3A) Income Support shall be paid in accordance with paragraph (1) within 7 days of the time determined for the payment of income support in accordance with Schedule 7.◄

►<sup>7</sup>(3B) Where child benefit is payable in accordance with paragraph (1), ►<sup>4</sup>an arrangement under that paragraph◄ shall also have effect for any guardian's allowance to which the claimant is entitled and that allowance shall be paid in the same manner as the child benefit which is due in his case.

(3C) Where guardian's allowance is payable in accordance with paragraph (1), ►<sup>4</sup>an arrangement under that paragraph◄ shall also have effect for the child benefit to which the claimant is entitled and that child benefit shall be paid in the same manner as the guardian's allowance which is due in his case.◄

(4) In respect of benefit which is the subject of an arrangement for payment under this regulation, the Secretary of State ►<sup>8</sup>or the Board◄ may make a particular payment by credit transfer otherwise than is provided by paragraph (3) ►<sup>9</sup>or (3A)◄ if it appears to him ►<sup>8</sup>or them◄ 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 for any similar purpose.

(5) ►<sup>10</sup>◄

►<sup>11</sup>(5A) In relation to payment of a joint-claim jobseeker's allowance, references in this regulation to the person entitled to benefit shall be construed as references to the member of the joint-claim couple who is the nominated member for the purposes of section 3B of the Jobseeker's Act.◄

(6) ►<sup>12</sup>◄

### ►<sup>13</sup>Delayed payment of lump sum

**21A.—**(1) This regulation applies where—

- (a) a person ("P") is entitled to a lump sum under, as the case may be—
  - (i) Schedule 5 to the Contributions and Benefits Act(a) (pension increase or lump sum where entitlement to retirement pension is deferred);
  - (ii) Schedule 5A to that Act(b) (pension increase or lump sum where entitlement to shared additional pension is deferred); or

(a) Schedule 5 is amended, so far as is relevant, by Schedule 11 to the Pensions Act 2004 (c. 35).  
(b) Schedule 5A is inserted by paragraph 15 of Schedule 11 to the Pensions Act 2004.

- (iii) Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005<sup>(a)</sup> (further provisions replacing section 36(4) of the National Insurance Act 1965: increases of graduated retirement benefit and lump sums);
  - ▶<sup>1</sup>(iv) section 8 of the Pensions Act 2014 (choice of lump sum or survivors' pension in certain cases); or
  - (v) regulations under section 10 of the Pensions Act 2014 (inheritance of graduated retirement benefit) which make provision corresponding or similar to section 8 of that Act; ◀
- or
- (b) the Secretary of State decides to make a payment on account of such a lump sum.

<sup>1</sup>Reg. 21A(1)(a)(iv) & (v) & para. (3)(d) & (e) inserted by art. 9(10)(a) & (b) of S.I. 2015/1985 as from 6.4.16.

(2) Subject to paragraph (3), for the purposes of section 7 of the Finance (No. 2) Act 2005<sup>(b)</sup> (charge to income tax of lump sum), P may elect to be paid the lump sum in the tax year (“the later year of assessment”) next following the tax year which would otherwise be the applicable year of assessment by virtue of section 8 of that Act (meaning of “applicable year of assessment” in section 7)(c).

(3) P may not elect in accordance with paragraph (2) (“a tax election”) unless he elects on the same day as he chooses a lump sum in accordance with, as the case may be—

- (a) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act<sup>(d)</sup>;
- (b) paragraph 1 of Schedule 5A to that Act;
- (c) paragraph 12 or 17 of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005;
- ▶<sup>1</sup>(d) section 8 of the Pensions Act 2014;
- (e) regulations under section 10 of the Pensions Act 2014 which make provision corresponding or similar to section 8 of that Act, ◀

or within a month of that day.

(4) A tax election may be made in writing to an office specified by the Secretary of State for accepting such elections or, except where in any particular case the Secretary of State directs that the election must be made in writing, it may be made by telephone call to the number specified by the Secretary of State.

(5) If P makes a tax election, payment of the lump sum, or any payment on account of the lump sum, shall be made in the first month of the later year of assessment or as soon as reasonably practicable after that month, unless P revokes the tax election before the payment is made.

(6) If P makes no tax election in accordance with paragraphs (2) and (3), or revokes a tax election, payment of the lump sum or any payment on account of the lump sum shall be made as soon as reasonably practicable after P—

- (a) elected for a lump sum, or was treated as having so elected; or
- (b) revoked a tax election.

(7) If P dies before the beginning of the later year of assessment—

- (a) any tax election in respect of P's lump sum shall cease to have effect; and
- (b) no person appointed under regulation 30 to act on P's behalf may make a tax election.

(8) In this regulation “the later year of assessment” has the meaning given by section 8(5) of the Finance (No. 2) Act 2005. ◀

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(a) S.I. 2005/454.

(b) 2005 c. 22.

(c) Section 8(5) provides that subsections (6) and (7) apply where social security regulations make related provision.

(d) Paragraphs A1 and 3C are inserted respectively by paragraphs 4 and 9 of Schedule 11 to the Pensions Act 2004.

## Regs. 22-22B

<sup>1</sup>Reg. 22(1) & (1A) substituted by reg. 3 & 4 of S.I. 2002/2441 as from 27.9.02.

<sup>2</sup>Words substituted in reg. 22(1) by reg. 2(4) of S.I. 2009/3229 as from 9.4.10.

<sup>3</sup>Words substituted in reg. 22(1) by reg. 2(5) of S.I. 2008/2667 as from 30.10.08.

<sup>4</sup>Words in reg. 22(1A) substituted and para. (1B) inserted by reg. 3(5) of S.I. 2010/510 as from 6.4.10.

<sup>5</sup>Amount £5 substituted for £2 in reg. 22(2) by reg. 3 of S.I. 1996/2306 as from 7.10.96.

<sup>6</sup>Regs. 22A & 22B inserted by reg. 2(4) of S.I. 2009/604 as from 6.4.09.

<sup>7</sup>Words in heading to regs. 22A and 22B & regs. 22A(1) & 22B(1) omitted by art. 10(8) & (9)(a)-(b) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

**Long term benefits**

**22.**—<sup>1</sup>(1) Subject to the provisions of this regulation and <sup>2</sup>regulations 22A, 22C and 25(1)<sup>◀</sup>, long term benefits may be paid at intervals of <sup>3</sup>four weeks in arrears, weekly in advance or, where the beneficiary agrees, at intervals not exceeding 13 weeks in arrears.<sup>◀</sup>

(1A) <sup>4</sup>Subject to paragraph (1B), disability<sup>◀</sup> living allowance shall be paid at intervals of four weeks.<sup>◀</sup>

<sup>4</sup>(1B) The Secretary of State may, in any particular case or class of case, arrange that attendance allowance or disability living allowance shall be paid at such other intervals not exceeding four weeks as may be specified.<sup>◀</sup>

(2) Where the amount of long-term benefit payable is less than <sup>5</sup>£5.00<sup>◀</sup> 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.

**<sup>6</sup><sup>7</sup>◀ widowed mother's allowance, widowed parent's allowance and widow's pension**

**22A.**—(1) Subject to paragraphs (2) and (4), <sup>7</sup>◀ widowed mother's allowance, widowed parent's allowance and widow's pension shall be paid fortnightly in arrears on the day of the week specified in paragraph (3).

(2) The Secretary of State may, in any particular case or class of case, arrange that a benefit specified in paragraph (1) be paid on any other day of the week.

(3) The day specified for the purposes of paragraph (1) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person's national insurance number—

(1)	(2)
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday

(4) The Secretary of State may, in any particular case or class of case, arrange that the beneficiary be paid weekly in advance or in arrears or, where the beneficiary agrees to be paid in such manner, at intervals of four or 13 weeks in arrears.

**Payment of <sup>7</sup>◀ widowed mother's allowance, widowed parent's allowance and widow's pension at a daily rate**

**22B.**—(1) Where entitlement to a <sup>7</sup>◀ widowed parent's allowance begins on a day which is not the first day of the benefit week, it shall be paid at a daily rate in respect of the period beginning with the day on which entitlement begins and ending on the day before the first day of the following benefit week.

(2) Where the Secretary of State changes the day on which a benefit mentioned in paragraph (5) is payable, the benefit shall be paid at a daily rate in respect of any day for which payment would have been made but for that change.

(3) An award of benefit mentioned in paragraph (5) shall be paid at a daily rate where—

- (a) the award is terminated;



- (b) entitlement ends on a day other than the last day of the benefit week; and
- (c) the benefit is paid in arrears.

(4) Where benefit is paid at a daily rate in the circumstances mentioned in paragraph (3), it shall be so paid in respect of the period beginning with the first day of the final benefit week and ending on the last day for which there is an entitlement to the benefit.

(5) Paragraphs (2) and (3) apply to—

- (a) ►<sup>1</sup>◄;
- (b) widowed mother’s allowance;
- (c) widowed parent’s allowance; and
- (d) widow’s pension.

<sup>1</sup>Words in reg. 22B(5)(a) omitted by art. 10(9)(c) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

(6) Where benefit is payable at a daily rate in the circumstances mentioned in this regulation, the daily rate shall be 1/7<sup>th</sup> of the weekly rate.◄

►<sup>2</sup>Retirement pension

<sup>2</sup>Regs. 22C & 22D inserted by reg. 2(5) of S.I. 2009/3229 as from 6.4.09.

**22C.**—(1) This regulation applies in relation to payment of a retirement pension to persons who reach pensionable age on or after 6th April 2010, other than to a person to whom paragraph (7) applies.

(2) Subject to paragraphs (4) to (6), a retirement pension shall be paid weekly, fortnightly or four weekly (as the Secretary of State may in any case determine) in arrears on the day of the week specified in paragraph (3).

(3) The day specified for the purposes of paragraph (2) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person’s national insurance number—

(1)	(2)
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday

(4) The Secretary of State may, in any particular case or class of case, arrange that retirement pension be paid on any other day of the week.

(5) The Secretary of State may, in any particular case or class of case, arrange that the beneficiary be paid in arrears at intervals of 13 weeks where the beneficiary agrees.

(6) Where the amount of a retirement pension payable is less than £5.00 per week the Secretary of State may direct that it shall be paid in arrears at such intervals, not exceeding 12 months, as may be specified in the direction.

(7) This paragraph applies to a man who—

- (a) was in receipt of state pension credit in respect of any day in the period beginning with the day 4 months and 4 days before the day on which he reaches pensionable age and ending on 5th April 2010; or
- (b) was in continuous receipt of state pension credit from 5th April 2010 until a day no earlier than the day 4 months and 4 days before the day on which he reaches pensionable age.

**Regs. 22CA-22D**

<sup>1</sup>Reg. 22CA inserted by art. 9(11) of S.I. 2015/1985 as from 6.4.16.

**►<sup>1</sup>State pension under Part 1 of the Pensions Act 2014**

**22CA.**—(1) This regulation applies in relation to payment of a state pension under Part 1 of the Pensions Act 2014.

- (2) State pension is to be paid in arrears.
- (3) The Secretary of State may arrange to pay state pension at intervals of—
- (a) one week;
  - (b) two weeks, if the beneficiary was in receipt of a working age benefit immediately before becoming entitled to the state pension which was paid fortnightly;
  - (c) four weeks;
  - (d) 13 weeks, if the beneficiary agrees; or
  - (e) such length not exceeding 12 months as the Secretary of State may choose, if—
    - (i) the Secretary of State makes a direction specifying that length; and
    - (ii) the amount of the state pension payable is less than £5.00 per week.
- (4) State pension is to be paid—
- (a) on the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person's national insurance number; or
  - (b) in any particular case or class of case, on any other day of the week that the Secretary of State may choose.

<i>(1) Last 2 digits national insurance number</i>	<i>(2) Day to be paid state pension</i>
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday◀

**Payment of retirement pension at a daily rate**

**22D.**—(1) Where the entitlement of a person (B) to a retirement pension begins on a day which is not the first day of the benefit week in the circumstances specified in paragraph (3), it shall be paid at a daily rate in respect of the period beginning with the day on which entitlement begins and ending on the day before the first day of the following benefit week.

- (2) Where in respect of a retirement pension—
- (a) the circumstances specified in paragraph (3) apply,
  - (b) B's entitlement to that benefit begins on a day which is not the first day of the benefit week, and
  - (c) a change in the rate of that benefit takes effect under an order made under ►<sup>2</sup>section 150 or 150A◀ of the 1992 Act (annual up-rating of basic pension etc.)**(a)** on a day, in the same benefit week, subsequent to the day on which B's entitlement arose,

<sup>2</sup>Words in reg. 22D(2)(c) substituted by reg. 3(6) of S.I. 2010/510 as from 6.4.10.

**(a)** Section 150A of the 1992 Act was inserted by section 5(1) of the Pensions Act 2007 (c. 22).

it shall be paid at a daily rate in respect of the period beginning with the day on which entitlement begins and ending on the day before the first day of the following benefit week.

- (3) The circumstances referred to in paragraphs (1) and (2) are where—
- (a) the retirement pension is paid in arrears,
  - (b) B has not opted to defer entitlement to a retirement pension under section 55 of the Contributions and Benefits Act(a), and
  - (c) B—
    - (i) was in receipt of a working age benefit in respect of any day in the period beginning with the day 8 weeks and a day before B reaches pensionable age and ending immediately before the day B reaches such age, or
    - (ii) has reached pensionable age and is a dependent spouse of a person who is in receipt of an increase for an adult dependant under section 83 or 84 of the Contributions and Benefits Act(b).

(4) Where benefit is payable at a daily rate in the circumstances mentioned in this regulation, the daily rate which shall apply in respect of a particular day in the relevant period shall be 1/7th of the weekly rate which, if entitlement had begun on the first day of the benefit week, would have had effect on that particular day.

(5) In this regulation, “benefit week” means the period of 7 days which ends on the day on which, in B’s case, the benefit is payable in accordance with regulation 22C.◀

►<sup>1</sup>Payment of state pension under Part 1 of the Pensions Act 2014 at a daily rate

<sup>1</sup>Reg. 22DA inserted by art. 9(12) of S.I. 2015/1985 as from 6.4.16.

**22DA.**—(1) State pension under Part 1 of the Pensions Act 2014 is to be paid at a daily rate where—

- (a) the day on which a person’s first benefit week begins is after—
  - (i) the day on which the person reaches pensionable age; or
  - (ii) where the person has deferred their state pension under sections 16 and 17 of the Pensions Act 2014, the first day in respect of which the person makes a claim for their state pension; or
- (b) the day on which a person’s last benefit week begins is before the day on which the person dies.

(2) The period for which a daily rate is to be paid is—

- (a) where paragraph (1)(a) applies, the period—
  - (i) beginning on the day on which the person reaches pensionable age or the first day in respect of which the person makes a claim for their state pension; and
  - (ii) ending on the day before the day on which the person’s first benefit week begins; or
- (b) where paragraph (1)(b) applies, the period beginning on the day on which the person’s last benefit week begins and ending on the day on which the person dies.

(3) The daily rate at which state pension is payable under this regulation is 1/7th of the weekly rate which would have had effect on the day if a weekly rate had been payable.

(4) In this regulation, “benefit week” means the period of 7 days ending on the day on which the person’s state pension is payable in accordance with regulation 22CA(4).◀

(a) Section 55 was substituted by the Pensions Act 2004 (c. 35), section 297(1) and amended by the Pensions Act 2007 (c. 22), paragraph 7 of Schedule 1 and by S.I. 2005/2053.

(b) Sections 83 and 84 were substituted by the Pensions Act 1995 (c. 26), Schedule 4, paragraph 2 and repealed by the Pensions Act 2007 (c. 22), section 4(1) and Part 2 of Schedule 7 with effect from 6th April 2010 (except in relation to a qualifying person at any time falling on or after that date but before the appropriate date: *see* section 4(5) to (7)).

**Regs. 23-24**

<sup>1</sup>Heading to reg. 23 substituted & reg. (3A) inserted by reg. 2(5) of S.I. 1999/2358 as from 20.9.99.

<sup>2</sup>Words in 23(1) deleted by reg. 4 of S.I. 2002/2441 as from 27.9.02.

<sup>3</sup>Words in reg. 23(2) substituted & inserted in 23(3)(a) by reg. 6(2) & (3) of S.I. 1994/3196 as from 10.1.95.

<sup>4</sup>Reg. 24 substituted by reg. 9 of S.I. 1994/2943 as from 13.4.95.

<sup>5</sup>Words in heading and words in reg. 24 deleted by reg. 2(13) of S.I. 1996/1460 as from 7.10.96.

<sup>6</sup>Words in reg. 24(1) deleted by reg. 5 of S.I. 2002/2441 as from 27.9.02.

<sup>7</sup>Words substituted & inserted in para. (1), paras. (1A)-(1C) inserted in reg. 24 by reg. 2(5)(a)-(b) of S.I. 2009/604 as from 6.4.09.

**▶<sup>1</sup>Child benefit and guardian's allowance◀**

**23.—**(1) Subject to the provisions of this regulation ▶<sup>2</sup>◀ 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) ▶<sup>3</sup>by means of serial orders or on presentation of an instrument for benefit payment◀.

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

- (a) by means of serial orders ▶<sup>3</sup>or on presentation of an instrument for benefit payment◀, or
- (b) on Mondays or Tuesday, 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.

▶<sup>1</sup>(3A) Where a claimant for child benefit is also entitled to guardian's allowance, that allowance shall be payable in the same manner and at the same intervals as the claimant's child benefit under this regulation.◀

(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.

**▶<sup>4</sup>▶<sup>5</sup>◀Incapacity benefit, maternity allowance and severe disablement allowance**

**24.—**(1) Subject to ▶<sup>6</sup>▶<sup>7</sup>paragraphs (3) and (3A),◀ ▶<sup>5</sup>◀ incapacity benefit▶<sup>7</sup>, maternity allowance◀ and severe disablement allowance shall be paid fortnightly in arrears unless, ▶<sup>7</sup>in any particular case or class of case◀, the Secretary of State arranges otherwise.

▶<sup>7</sup>(1A) Subject to paragraphs (1B), the benefits specified in paragraph (1) shall be paid on the day of the week specified in paragraph (1C).

(1B) The Secretary of State may, in any particular case or class of case, arrange that a benefit specified in paragraph (1) be paid on any other day of the week.

(1C) The day specified for the purposes of paragraph (1A) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person's national insurance number—

(1)	(2)
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday.◀

(2) ▶<sup>1</sup>◀

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

▶<sup>2</sup>(3A) Where the amount of incapacity benefit payable after reduction for pension payments under section 30DD of the Social Security Contributions and Benefits Act 1992(a) (including any reduction for other purposes) is less than £5.00 a week, the Secretary of State may direct that it shall be paid ▶<sup>1</sup>in arrears◀ at such intervals as may be specified not exceeding 12 months.◀

(4) ▶<sup>1</sup>◀

<sup>1</sup>Paras. (2) & (4) omitted & words substituted in para. (3A) of reg. 24 by reg. 2(5)(c)-(d) of S.I. 2009/604 as from 6.4.09.

<sup>2</sup>Reg. 24(3A) inserted by reg. 3 of S.I. 2000/3120 as from 6.4.01.

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

25.—(1) Attendance allowance ▶<sup>3</sup>or disability living allowance ▶<sup>4</sup>◀◀ 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 ▶<sup>3</sup>or disability living allowance ▶<sup>4</sup>◀◀ payable in pursuance of this regulation shall be paid weekly or as the Secretary of State may direct in any case.

<sup>3</sup>Words inserted in reg. 25(1) & (2) by reg. 13(a) of S.I. 1991/2741 as from 6.4.92.

<sup>4</sup>Words deleted from reg. 25(1) by reg. 3 of S.I. 1996/1436 as from 31.7.96.

(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 ▶<sup>3</sup>a hospital specified in or other accommodation provided as specified in regulations made under section 37ZB(8) of the Social Security Act 1975(b) (“specified hospital or other accommodation”)◀; and
- (b) ends—
  - (i) if the first day of the period was a day of payment, at midnight on the day preceding the ▶<sup>3</sup>4th◀ following day of payment, or
  - (ii) if that day was not a day of payment, at midnight on the day preceding the ▶<sup>3</sup>5th◀ following day of payment, or
  - (iii) if earlier, on the day immediately preceding the day on which ▶<sup>3</sup>he next lives in specified hospital or other accommodation◀;

if on the first day of the period it is expected that, before the expiry of the period of ▶<sup>3</sup>28 days◀ beginning with that day, he will return to ▶<sup>3</sup>specified hospital or other accommodation◀.

(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(c) applied.

(a) 1992 c. 4 Section 30DD was inserted by Section 63 of the Welfare Reform and Pensions Act 1999 (c. 30).

(b) Section 37ZB was inserted by Section 1 of the Disability Living Allowance & Disability Working Allowance Act 1999.

(c) S.I. 1982/1408.

## Regs. 26-26BA

## Income support

<sup>1</sup>Words substituted in reg. 26(1) by reg. 3 of S.I. 1993/1113 as from 12.5.93.

<sup>2</sup>Words in reg. 26(1) and paras. (2) & (3) omitted by reg. 2(9) of S.I. 2006/832 as from 10.4.06.

<sup>3</sup>Words in regs. 26(1) & 26A(4)-(8) omitted by regs. 4(1) & (2) of S.I. 2000/1596 as from 19.6.00.

<sup>4</sup>Reference in reg. 26(4) substituted by reg. 6 of S.I. 1988/522 as from 11.4.88.

<sup>5</sup>Words substituted in reg. 26(4) by reg. 2(5)(c) of S.I. 1989/136 as from 27.2.89.

<sup>6</sup>Reg. 26A inserted by reg. 2(14) of S.I. 1996/1460 as from 7.10.96.

<sup>7</sup>Words in reg. 26A(2) revoked by para. 18(4) of the Sch. to S.I. 2002/1397 as from 27.6.02.

<sup>8</sup>Reg. 26B inserted by reg. 9 of S.I. 2002/3019 as from 6.10.03.

<sup>9</sup>Words in reg. 26B(1) and (4) substituted and reg. 26BA inserted by reg. 2(6) and (7) of S.I. 2009/3229 as from 6.4.10.

<sup>10</sup>Words in reg. 26B(1) & (4) substituted and paras. (3), (6) & (7) omitted by reg. 2(10)(a)-(d) of S.I. 2006/832 as from 10.4.06.

<sup>11</sup>Words in reg. 26B(2)(a) substituted by art. 9(13) of S.I. 2015/1985 as from 6.4.16.

**26.**—(1) Subject to regulation 21 (direct credit transfer), Schedule 7 shall have effect for determining the time at which income support is to be paid and the day when entitlement to income support is to begin.

(2)

(3)

(4) Where the entitlement to income support is less than 10 pence or, in the case of a beneficiary to whom section 23A(a) 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 may be paid under arrangements made by the Secretary of State.

**Jobseeker's allowance**

**26A.**—(1) Subject to the following provisions of this regulation, Jobseeker's allowance shall be paid fortnightly in arrears unless in any particular case or class of case the Secretary of State arranges otherwise.

(2) The provisions of paragraph 2A of Schedule 7 (payment of income support at times of office closure) shall apply for the purposes of payment of a jobseeker's allowance as they apply for the purposes of payment of income support.

(3) Where the amount of a jobseeker's allowance is less than £1.00 a week the Secretary of State may direct that it shall be paid at such intervals, not exceeding 13 weeks, as may be specified in the direction.

(4)-(8)

**State pension credit**

**26B.**—(1) Except where paragraph (2) or regulation 26BA applies, state pension credit shall be payable on Mondays, but subject to regulation 21 where payment is by direct credit transfer.

(2) State pension credit shall be payable—

(a) on the same day as any—

(i) state pension under Part 1 of the Pensions Act 2014, or

(ii) retirement pension

is payable to the claimant; or

(b) on such other day of the week as the Secretary of State may, in the particular circumstances of the case, determine.

(3)

(4) Subject to regulation 26BA, state pension credit paid otherwise than in accordance with regulation 21 shall be paid weekly in advance.

(5) Where the amount of state pension credit payable is less than £1.00 per week, the Secretary of State may direct that it shall be paid at such intervals, not exceeding 13 weeks, as may be specified in the direction.

(6)-(7)

**Intervals for payment of state pension credit**

**26BA.**—(1) Where state pension credit is payable to a person who reaches pensionable age on or after 6th April 2010, other than a person to whom regulation 22C(7) applies, it shall be paid weekly, fortnightly or four weekly (as the Secretary of State may in any case determine) in arrears on the day of the week specified in paragraph (2).

(a) S. 23A of the Social Security Act 1986 was inserted by the Social Security Act 1988 (c. 7) Sch. 4, para. 22.

(2) The day specified for the purposes of paragraph (1) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the person's national insurance number—

(1)	(2)
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday

(3) The Secretary of State may, in any particular case or class of case, arrange that state pension credit be paid on any other day of the week.

(4) Where the amount of state pension credit payable is less than £1.00 per week the Secretary of State may direct that it shall be paid in arrears at such intervals, not exceeding 13 weeks, as may be specified in the direction.◀

►<sup>1</sup>Employment and support allowance

<sup>1</sup>Reg. 26C inserted by reg. 21 of S.I. 2008/1554 as from 27.10.08.

**26C.**—(1) Subject to paragraphs (3) to (7), employment and support allowance is to be paid fortnightly in arrears on the day of the week determined in accordance with paragraph (2).

(2) The day specified for the purposes of paragraph (1) is the day in column (2) which corresponds to the series of numbers in column (1) which includes the last 2 digits of the claimant's national insurance number—

(1)	(2)
00 to 19	Monday
20 to 39	Tuesday
40 to 59	Wednesday
60 to 79	Thursday
80 to 99	Friday

(3) The Secretary of State may, in any particular case or class of case, arrange that the claimant be paid otherwise than fortnightly.

(4) The Secretary of State may, in any particular case or class of case, arrange that employment and support allowance be paid on any day of the week and where it is in payment to any person and the day on which it is payable is changed, it must 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.

(5) Where the weekly amount of employment and support allowance is less than £1.00 it may be paid in arrears at intervals of not more than 13 weeks.

(6) Where the weekly amount of an employment and support allowance is less than 10 pence that allowance is not payable.

(7) The provisions of paragraph 2A of Schedule 7 (payment of income support at time of office closure) apply for the purposes of payment of employment and support allowance as they apply for the purposes of payment of income support.◀

*See Sch. 2, para. 19 of S.I. 2010/1907 at page 13.9427 for details of modifications to reg. 26C in certain situations.*

**Regs. 27-30**

<sup>1</sup>Reg. 27 substituted by reg. 14 of S.I. 1991/2741 as from 6.4.92.

<sup>2</sup>Words substituted in reg. 27 by regs. 24 and 25 of S.I. 1999/2572 as from 5.10.99.

<sup>3</sup>Words substituted in reg. 27(1) by reg. 3(4) of S.I. 1993/2113 as from 25.10.93.

<sup>4</sup>Words inserted into reg. 27(1) by reg. 7 of S.I. 1994/3196 as from 10.1.95.

<sup>5</sup>For tax credit purposes only, words in square brackets substituted for "Secretary of State arranges" & "Secretary of State so directs" by reg. 12(a) & (b) of S.I. 1999/2572 as from 5.10.99.

<sup>6</sup>Reg. 27(1A) inserted by reg. 3(4) of S.I. 1993/2113 as from 25.10.93.

<sup>7</sup>Words inserted in reg. 28 & 28(2) inserted by reg. 2 of S.I. 2002/1950 as from 2.9.02.

<sup>8</sup>Reg. 29 substituted by reg. 2(4) of S.I. 1996/672 as from 4.4.96.

<sup>9</sup>Words in regs. 29 & 30(2) substituted by regs. 6 & 7 of S.I. 2002/2441 as from 23.10.02.

<sup>10</sup>Words inserted in regs. 29, 30(1) & (2) by regs. 20 & 22 of S.I. 1999/2572 as from 5.10.99.

<sup>11</sup>Words inserted in reg. 30(1) by reg. 7(6) of S.I. 2005/337 as from 18.3.05.

<sup>12</sup>Words substituted in reg. 30(2) by reg. 2(7)(a) of S.I. 2000/1982 as from 19.3.01.

**▶<sup>1</sup>▶<sup>2</sup>Working families' tax credit◀ and ▶<sup>2</sup>disabled persons' tax credit◀**

**27.**—(1) Subject to regulation 21▶<sup>3</sup>and paragraph (1A)◀, ▶<sup>2</sup>working families' tax credit◀ and ▶<sup>2</sup>disabled persons' tax 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 ▶<sup>4</sup>or on presentation of an instrument for benefit payment◀ unless in any case the Secretary of State arranges [▶<sup>5</sup>Board arrange◀] otherwise.

▶<sup>6</sup>(1A) Subject to paragraph (2), where an amount of ▶<sup>2</sup>working families' tax credit◀ or ▶<sup>2</sup>disabled persons' tax credit◀ becomes payable which is at a weekly rate of not more than £4.00, that amount shall, if the Secretary of State so directs [▶<sup>5</sup>Board so direct◀], be payable as soon as practicable by means of a single payment; except that if that amount represents an increase in the amount of either of those benefits which has previously been paid in respect of the same period, this paragraph shall apply only if that previous payment was made by means of a single payment.◀

(2) Where the entitlement to ▶<sup>2</sup>working families' tax credit◀ or ▶<sup>2</sup>disabled persons' tax credit◀ is less than 50 pence a week that amount shall not be payable.◀

**Fractional amounts of benefit**

**28.** ▶<sup>7</sup>(1) Subject to paragraph (2),◀ 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.

▶<sup>7</sup>(2) Where the amount of any maternity allowance payable would, but for this regulation, include a fraction of a penny, that fraction shall be treated as a penny.◀

**▶<sup>8</sup>Payments to persons under age 18**

**29.** Where benefit is paid to a person under the age of 18 (whether on his own behalf or on behalf of another) ▶<sup>9</sup>a direct credit transfer under regulation 21 into that person's account, or the receipt by him of a payment made by some other means,◀ shall be a sufficient discharge to the Secretary of State ▶<sup>10</sup>or the Board◀.◀

**Payments on death**

**30.**—(1) On the death of a person who has made a claim for benefit, the Secretary of State ▶<sup>10</sup>or the Board◀ may appoint such person as he ▶<sup>10</sup>or they◀ may think fit to proceed with the claim ▶<sup>11</sup>and any related issue of revision, supersession or appeal.◀

(2) Subject to ▶<sup>12</sup>paragraphs (4) and (4A)◀, 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 ▶<sup>10</sup>or the Board◀ 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) ▶<sup>9</sup>a direct credit transfer under regulation 21 into any such person's account, or the receipt by him of a payment made by some other means,◀ shall be a good discharge to the Secretary of State ▶<sup>10</sup>or the Board◀ for any sum so paid; and
- (b) where the Secretary of State is satisfied ▶<sup>10</sup>or the Board are satisfied◀ that any such sum or part thereof is needed for the benefit of any person under the age of 16, he ▶<sup>11</sup>or they◀ may obtain a good discharge therefore by paying the sum of part thereof to a person over that age who satisfies the Secretary of State ▶<sup>11</sup>or the Board◀ 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.



**Reg. 30**

(4) <sup>1</sup>Subject to paragraph (4B), 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 or the Board within 12 months from the date of the deceased's death or within such longer period as the Secretary of State or the Board may allow in any particular case.

<sup>3</sup>(4A) In a case where a joint-claim jobseeker's allowance has been awarded to a joint-claim couple and one member of that couple dies, the amount payable under that award shall be payable to the other member of that couple.

<sup>1</sup>(4B) A written application is not required where—

- (a) an executor or administrator has not been appointed;
- (b) the deceased was in receipt of a retirement pension<sup>4</sup>, a state pension under Part 1 of the Pensions Act 2014 of any category or state pension credit including where any other benefit was combined for payment purposes with either of those benefits at the time of death;
- (c) the sum payable by way of benefit to the deceased is payable to a person who was the spouse or civil partner of the deceased at the time of death; and
- (d) either—
  - (i) the spouse or civil partner and the deceased were living together at the time of death; or
  - (ii) they would have been living together at the time of death but for the fact that either or both of them were in a residential care or a nursing home or in a hospital.

(5) <sup>5</sup>Subject to paragraphs (5A) to <sup>4</sup>(5H), where the conditions specified in paragraph (6) are satisfied, a claim may be made on behalf of the deceased to any benefit other than <sup>6</sup>jobseeker's allowance, income support<sup>7</sup>, state pension credit<sup>8</sup>, <sup>9</sup>working families' tax credit or <sup>9</sup>disabled person's tax credit or a social fund payment such as is mentioned in section 32(2)(a) <sup>10</sup>and section 32(2A) of the Social Security Act 1986<sup>11</sup>, or reduced earnings allowance or disablement benefit, to which he would have been entitled if he had claimed it in the prescribed manner and within the prescribed time.

<sup>12</sup>(5A) Subject to paragraphs (5B) to (5G), a claim may be made in accordance with paragraph (5) on behalf of the deceased for a Category A or Category B retirement pension or graduated retirement benefit provided that the deceased was not married or in a civil partnership on the date of his death.

(5B) But, subject to paragraphs (5C) to (5G), a claim may be made in accordance with paragraph (5) on behalf of the deceased for a Category A or Category B retirement pension or graduated retirement benefit where the deceased was a married woman or a civil partner on the date of death if the deceased's widower or surviving civil partner was under pensionable age on that date and due to attain pensionable age before 6th April 2010.

(5C) Where a claim is made for a shared additional pension<sup>4</sup> or a state pension under Part 1 of the Pension Act 2014 under paragraph (5) or for a retirement pension or graduated retirement benefit under paragraphs (5) and (5A) or (5B), in determining the benefit to which the deceased would have been entitled if he had claimed within the prescribed time, the prescribed time shall be the period of three months ending on the date of his death and beginning with any day on which, apart from satisfying the condition of making a claim, he would have been entitled to the pension or benefit.

(5D) Paragraph (5E) applies where, throughout the period of 12 months ending with the day before the death of the deceased person, his entitlement to a Category A or a Category B retirement pension, shared additional pension or graduated retirement benefit was deferred in accordance with, as the case may be—

- (a) section 55 of the Contributions and Benefits Act (a) (pension increase or lump sum where entitlement to retirement pension is deferred);

<sup>1</sup>Words in reg. 30(4) substituted and para. (4B) added by reg. 2(12) & (13) of S.I. 2007/2470 as from 24.9.07.

<sup>2</sup>Words inserted in reg. 30(4) by reg. 20 of S.I. 1999/2572 as from 5.10.99.

<sup>3</sup>Para. 4A inserted by reg. 2(7)(b) of S.I. 2000/1982 as from 19.3.01.

<sup>4</sup>Words in reg. 30(4B)(b), (5) & (5C) inserted & substituted by art. 9(14)(a)-(c) of S.I. 2015/1985 as from 6.4.16.

<sup>5</sup>Words inserted in reg. 30(5) by reg. 4(a) of S.I. 2005/455 as from 6.4.06.

<sup>6</sup>Words inserted in reg. 30(5) by reg. 2(15) of S.I. 1996/1460 as from 7.10.96.

<sup>7</sup>Words in reg. 30(5) inserted by reg. 10 of S.I. 2002/3019 as from 6.10.03.

<sup>8</sup>Words substituted in reg. 30(5) by reg. 15 of S.I. 1991/2741 as from 10.3.92.

<sup>9</sup>Words substituted in reg. 30(5) by regs. 24 and 25 of S.I. 1999/2572 as from 5.10.99.

<sup>10</sup>Words inserted into reg. 30(5) by reg. 3(6) of S.I. 1988/1725 as from 7.11.88.

<sup>11</sup>Words inserted into reg. 30(5) by reg. 11(2) of S.I. 1990/2208 as from 5.12.90.

<sup>12</sup>Reg. 30(5A) to (5G) substituted for (5A) to (5F) by reg. 4(a) of S.I. 2005/3078 as from 6.4.06.

(a) Section 55 was substituted by the Pensions Act 2004 (c. 35), section 297.

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- (b) section 55C of that Act<sup>(a)</sup> (pension increase or lump sum where entitlement to shared additional pension is deferred); or
- (c) section 36(4A) of the National Insurance Act 1965<sup>(b)</sup> (deferment of graduated retirement benefit).

(5E) Where a person claims under paragraph (5) or under paragraphs (5) and (5A) or (5B) the deceased shall be treated as having made an election in accordance with, as the case may be—

- (a) paragraph A1(1)(a) of Schedule 5 to the Contributions and Benefits Act<sup>(c)</sup> (electing to have an increase of pension), where paragraph (5D)(a) applies;
- (b) paragraph 1(1)(a) of Schedule 5A to that Act<sup>(d)</sup> (electing to have an increase of a shared additional pension) where paragraph (5D)(b) applies; or
- (c) paragraph 12(1)(a) of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005<sup>(e)</sup> (electing to have an increase of benefit), where paragraph (5D)(c) applies.

<sup>1</sup>Words in reg. 30(5F), (c) & (5G) substituted & (5H) inserted by art. 9(14) of S.I. 2015/1985 as from 6.4.16.

(5F) ►<sup>1</sup>Paragraphs (5G) and (5H) apply◄ where—

- (a) the deceased person was a widow, widower or surviving civil partner (“W”) who was married to, or in a civil partnership with, the other party of the marriage or civil partnership (“S”) when S died;
- (b) throughout the period of 12 months ending with the day before S’s death, S’s entitlement to a Category A or a Category B retirement pension or graduated retirement benefit was deferred in accordance with, as the case may be, paragraph (5D)(a) or (c); and
- (c) W made no statutory election►<sup>1</sup>, or choice under section 8(2) of the Pensions Act 2014 or Regulation under section 10 of that Act which make provision corresponding or similar to section 8(2),◄ in consequence of the deferral.

(5G) Where a person claims under paragraphs (5) and (5A) the deceased ►<sup>1</sup>(referred to as W in paragraph (5F))◄ shall be treated as having made an election in accordance with, as the case may be—

- (a) paragraph 3C(2)(a) of Schedule 5 to the Contributions and Benefits Act<sup>(f)</sup> (electing to have an increase of pension), where paragraph (5D)(a) applies; or
- (b) paragraph 17(2)(a) of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005 (electing to have an increase in benefit), where paragraph (5D)(c) applies.◄

►<sup>1</sup>(5H) Where a person makes a claim under paragraph (5) for a state pension under Part 1 of the Pensions Act 2014, the deceased (referred to as W in paragraph (5F)) shall be treated as having made a choice to be paid a state pension under—

- (a) section 9 of the Pensions Act 2014 (survivor’s pension based on inheritance of deferred old state pension) in accordance with section 8(2)(b) of that Act; or
- (b) regulations under section 10 of the Pensions Act 2014 which make provision corresponding or similar to section 9 of that Act in accordance with regulations under section 10 which make provision corresponding or similar to section 8(2)b).◄

(6) ►<sup>2</sup>Subject to the following provisions of this regulation,◄ the following conditions are specified for the purposes of paragraph (5)—

<sup>2</sup>Words inserted into reg. 30(6) by reg. 3(5)(a) of S.I. 1993/2113 as from 27.9.93.

- (a) Section 55C was inserted by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 6, paragraphs 1 and 3, and substituted by the Pensions Act 2004, section 297.
- (b) 1965 c. 51; section 36 is continued in force and modified by S.I. 1978/393; subsection (4A) was inserted by S.I. 2005/454.
- (c) Paragraph A1 was inserted by the Pensions Act 2004, Schedule 11, paragraph 4.
- (d) Schedule 5A was inserted by the Pensions Act 2004, Schedule 11, paragraph 15.
- (e) S.I. 2005/454; Schedule 1 has effect by virtue of section 36(4) of the National Insurance Act 1965 as amended by S.I. 2005/454.
- (f) Paragraph 3C was inserted by the Pensions Act 2004, Schedule 11, paragraph 9.

- (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.

►<sup>1</sup>(6A) Where the conditions specified in paragraph (6B) are satisfied, a person may make a claim for reduced earnings allowance or disablement benefit, including any increase under section 61 or 63 of the Social Security Act 1975(a), in the name of a person who has died.

<sup>1</sup>Paras. (6A) and (6B) inserted into reg. 30 by reg. 11(3) of S.I. 1990/2208 as from 5.12.90.

(6B) ►<sup>2</sup>Subject to the following provisions of this regulation,◀ the conditions specified for the purposes of paragraph (6A) are—

<sup>2</sup>Words inserted into reg. 30(6B) by reg. 3(5)(a) of S.I. 1993/2113 as from 27.9.93.

- (a) that the person who has died would have been entitled to the benefit claimed if he had made a claim for it in the prescribed manner and within the prescribed time;
- (b) that within 6 months of a death certificate being issued in respect of the person who has died, the person making the claim has applied to the Secretary of State to be made an appointee of the person who has died ►<sup>3</sup>◀

<sup>3</sup>Words deleted from reg. 30(6B)(b) and reg. 30(6B)(ba) inserted by reg. 5 of S.I. 1994/2319 as from 3.10.94.

- <sup>3</sup>(ba) that person has been appointed by the Secretary of State to make the claim;◀
- (c) the claim is made within 6 months of the appointment.◀

►<sup>4</sup>(6C) Subject to paragraph (6D), where the Secretary of State certifies that to do so would be consistent with the proper administration of the Social Security Contributions and Benefits Act 1992 the period specified in paragraphs (6)(a) and (c) and (6B)(b) and (c) shall be extended by such period, not exceeding 6 months, as may be specified in the certificate.

<sup>4</sup>Paras. (6C) and (6D) inserted into reg. 30 by reg. 3(5)(b) of S.I. 1993/2113 as from 27.9.93.

(6D)

- (a) Where a certificate is given under paragraph (6C) extending the period specified in paragraph (6)(a) or (6B)(b), the period specified in paragraph (6)(c) or (6B)(c) shall be shortened by a period corresponding to the period specified in the certificate;
- (b) no certificate shall be given under paragraph (6C) which would enable a claim to be made more than 12 months after the date of death (in a case falling within paragraph (6)) or the date of a death certificate being issued in respect of the person who has died (in a case falling within paragraph (6B)); and
- (c) in the application of sub-paragraph (b) any period between the date when the application for a person to be appointed to make a claim is made and the date when that appointment is made shall be disregarded.◀

(7) A claim made in accordance with paragraph (5) ►<sup>5</sup>or paragraph (6A)◀ shall be treated, for the purposes of these regulations, as if made by the deceased on the date of his death.

<sup>5</sup>Words inserted into reg. 30(7) by reg. 11(4) of S.I. 1990/2208 as from 5.12.90.

(8) The Secretary of State ►<sup>6</sup>or the Board◀ may dispense with strict proof of the title of any person claiming in accordance with the provisions of this regulation.

<sup>6</sup>Words inserted in reg. 30(8) by reg. 20 of S.I. 1999/2572 as from 5.10.99.

(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.

(a) Subsections (3) and (4) were inserted into section 61 by para. 6 of Sch. 3 to the Social Security Act 1986 (c. 50).

**Regs. 30A-32**

<sup>1</sup>Reg. 30A inserted by reg. 5 of S.I. 2001/518 as from 19.3.01.

**►<sup>1</sup>Payments of arrears of joint-claim jobseeker's allowance where the nominated person can no longer be traced**

**30A.** Where—

- (a) an award of joint-claim jobseeker's allowance has been awarded to a joint-claim couple;
- (b) that couple ceases to be a joint-claim couple; and
- (c) the member of the joint-claim couple nominated for the purposes of section 3B of the Jobseekers Act cannot be traced,

arrears on the award of joint-claim jobseeker's allowance shall be paid to the other member of the former joint-claim couple.◄

**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.

<sup>2</sup>Para. (1A) inserted by para. 2(8) of Sch. 3 to S.I. 1999/3108 as from 29.11.99.

►<sup>2</sup>(1A) In the case of a person who made a claim for benefit in accordance with regulation 4A(1), a change of circumstances may be notified to a relevant authority at any office to which the claim for benefit could be made in accordance with that provision.◄

(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 ►<sup>3</sup>◄.

<sup>3</sup>Words deleted in reg. 31(4) by Sch. 6, para. 10 of S.I. 1999/3178 as from 29.11.99.

(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.

<sup>4</sup>Heading and para. (1) of reg. 32 substituted by reg. 2 of S.I. 2003/1050 as from 5.5.03.

**►<sup>4</sup>Information to be given and changes to be notified**

<sup>5</sup>Words omitted and inserted in reg. 32(1) by reg. 2 of S.I. 2012/824 as from 17.4.12.

**32.—(1)** Except in the case of a jobseeker's allowance, every beneficiary and every person by whom, or on whose behalf, sums by way of benefit are receivable shall furnish in such manner and ►<sup>5</sup>◄ as the Secretary of State may determine ►<sup>5</sup> and within the period applicable under regulation 17(4) of the Decisions and Appeals Regulations◄ such information or evidence as the Secretary of State may require for determining whether a decision on the award of benefit should be revised under section 9 of the Social Security Act 1998(a) or superseded under section 10 of that Act.

(1A) Every beneficiary and every person by whom, or on whose behalf, sums by way of benefit are receivable shall furnish in such manner and at such times as the Secretary of State may determine such information or evidence as the Secretary of State may require in connection with payment of the benefit claimed or awarded.

*See Sch. 1, para. 13(a) & (b) of S.I. 2010/1907 at page 13.9421 for details of modifications of reg. 32(1) & (1A) in certain situations.*

(1B) Except in the case of a jobseeker's allowance, every beneficiary and every person by whom or on whose behalf sums by way of benefit are receivable shall notify

(a) 1998 c. 14.

the Secretary of State of any change of circumstances which he might reasonably be expected to know might affect—

- (a) the continuance of entitlement to benefit; or
- (b) the payment of the benefit,

as soon as reasonably practicable after the change occurs by giving notice <sup>1</sup>of the change to the appropriate office—

- (i) in writing or by telephone (unless the Secretary of State determines in any particular case that notice must be in writing or may be given otherwise than in writing or by telephone); or
- (ii) in writing if in any class of case he requires written notice (unless he determines in any particular case to accept notice given otherwise than in writing) <sup>2</sup>.

*See Sch. 2, para. 60(a) & (b) of S.I. 2010/1907 at page 13.9427 for details of modifications to reg. 32(1B) in certain situations.*

<sup>3</sup>(1C) <sup>4</sup>In the case of a person who made a claim for benefit in accordance with regulation 4A(1), a change of circumstances may be notified to a relevant authority at any office to which the claim for benefit could be made in accordance with that provision. <sup>5</sup>

(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.

<sup>6</sup>(3) In the case of a person who is claiming income support<sup>5</sup>, state pension credit<sup>6</sup>, a jobseeker's allowance or an employment and support allowance<sup>7</sup>, where that person or any partner is aged not less than 60 and is a member of, or a person deriving entitlement to a pension under, a personal pension scheme, or is a party to, or a person deriving entitlement to a pension under, a retirement annuity contract, he shall where the Secretary of State so requires furnish the following information—

- (a) the name and address of the pension fund holder;
- (b) such other information including any reference or policy number as is needed to enable the personal pension scheme or retirement annuity contract to be identified.

(4) Where the pension fund holder receives from the Secretary of State a request for details concerning a personal pension scheme or retirement annuity contract relating to a person or any partner to whom paragraph (3) refers, the pension fund holder shall provide the Secretary of State with any information to which paragraph (5) refers.

(5) The information to which this paragraph refers is—

- (a) where the purchase of an annuity under a personal pension scheme has been deferred, the amount of any income which is being withdrawn from the personal pension scheme;
- (b) in the case of—
  - (i) a personal pension scheme where income withdrawal is available, the <sup>7</sup>rate of the annuity which may have been purchased with the funds held under the scheme<sup>8</sup> or;
  - (ii) a personal pension scheme where income withdrawal is not available, or a retirement annuity contract, the <sup>7</sup>rate of the annuity which might have been purchased with the fund<sup>8</sup> if the fund were held under a personal pension scheme where income withdrawal was available,

calculated by or on behalf of the pension fund holder by means of tables prepared from time to time by the Government Actuary which are appropriate for this purpose. <sup>9</sup>

<sup>5</sup>(6) This regulation shall apply in the case of state pension credit subject to the following modifications—

- (a) <sup>8</sup>in connection with the setting of a new assessed income period<sup>9</sup>, the information and evidence <sup>8</sup>which the Secretary of State may require<sup>9</sup> to be notified in accordance with this regulation includes information and evidence

<sup>1</sup>Words substituted in reg. 32(1B) by reg. 2 of S.I. 2003/3209 as from 6.1.04.

<sup>2</sup>Para. (1C) originally numbered as (1A) inserted by Sch. 3 of S.I. 1999/3108 as from 29.11.99.

<sup>3</sup>Para. (1C) renumbered by reg. 2(6) of S.I. 2003/1632 as from 21.7.03.

<sup>4</sup>Reg. 32(3), (4) & (5) added, by reg. 10(4) of S.I. 1995/2303 as from 2.10.95.

<sup>5</sup>Words in reg. 32(3) & (6) inserted by reg. 11(a) & (b) of S.I. 2002/3019 as from 6.10.03.

<sup>6</sup>Words substituted in reg. 32(3) by reg. 22 of S.I. 2008/1554 as from 27.7.08.

<sup>7</sup>Words substituted in reg. 32(5)(b) by reg. 5(4) of S.I. 2017/1015 as from 16.11.17.

<sup>8</sup>Words in reg. 32(6)(a) substituted by reg. 3(2)(a) of S.I. 2008/1599 as from 25.8.08.

as to the likelihood of future changes in the claimant's circumstances needed to determine—

(i) whether a period should be specified as an assessed income period under section 6 of the 2002 Act in relation to any decision; and

(ii) if so, the length of the period to be so specified; ▶<sup>1</sup>◀

▶<sup>1</sup>(b) except to the extent that sub-paragraph (a) applies, changes to an element of the claimant's retirement provision need not be notified if—

(i) an assessed income period is current in his case; ▶<sup>2</sup>or◀

▶<sup>2</sup>(ii) the period applicable under regulation 17(4) of the Decisions and Appeals Regulations has not expired◀

(iii) ▶<sup>2</sup>◀

▶<sup>2</sup>(7) In this regulation, “the Decisions and Appeals Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations 1999.◀

<sup>1</sup>Word deleted & reg. 32(6)(a) substituted for (a) & (b) by reg. 4 of S.I. 2003/2274 as from 6.10.03.

<sup>2</sup>Words inserted, sub-para. (b)(ii) substituted, sub-para. (b)(iii) and (c) omitted and para. (7) added by reg. 32(3) & (4) of S.I. 2012/824 as from 17.4.12.

<sup>3</sup>Reg. 32ZZA inserted by reg. 2 of S.I. 2010/444 as from 5.4.10.

▶<sup>3</sup>**Alternative means of notifying changes of circumstances**

**32ZZA.**—(1) In such cases and subject to such conditions as the Secretary of State may specify, the duty in regulation 32(1B) to notify a change of circumstances may be discharged by notifying the Secretary of State as soon as reasonably practicable—

(a) where the change of circumstances is a birth or death, through a relevant authority, or a county council in England, by personal attendance at an office specified by that authority or county council, provided the Secretary of State has agreed with that authority or county council for it to facilitate such notification; or

(b) where the change of circumstances is a death, by telephone to a telephone number specified for that purpose by the Secretary of State.

(2) In this regulation “relevant authority” has the same meaning as in the Housing Benefit Regulations 2006(a) ▶<sup>4</sup>◀◀

<sup>4</sup>Words in reg. 32ZZA(2) revoked by Sch. 1 of S.I. 2013/458 as from 1.4.13.

<sup>5</sup>Reg. 32ZA inserted by reg. 2(3) of S.I. 2003/2800 as from 1.12.03.

▶<sup>5</sup>**Information given electronically**

**32ZA.**—(1) Where this regulation applies a person may give any certificate, notice, information or evidence required to be given and in particular may give notice of any change of circumstances required to be notified under regulation 32 by means of any electronic communication, in accordance with the provisions set out in Schedule 9ZC.

▶<sup>6</sup>(2) This regulation applies in relation to an award of—

(a) attendance allowance;

▶<sup>7</sup>(aa) bereavement support payment;◀

(b) carer's allowance;

(c) disability living allowance;

(d) an employment and support allowance;

▶<sup>8</sup>(da) incapacity benefit;◀

(e) income support;

(f) a jobseeker's allowance▶<sup>8</sup>;

(g) retirement pension;

(h) state pension credit;◀◀

▶<sup>9</sup>(i) state pension under Part 1 of the Pensions Act 2014;◀

▶<sup>10</sup>(j) industrial injuries benefit.◀

<sup>6</sup>Reg. 32ZA(2) substituted by art. 4(3) of S.I. 2011/1498 as from 20.6.11.

<sup>7</sup>Reg. 32ZA(2)(aa) inserted by art. 10(10) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

<sup>8</sup>Reg. 32ZA(2), sub-paras. (da), (g) and (h) inserted by reg. 2(2) of S.I. 2011/2943 as from 23.1.12.

<sup>9</sup>Reg. 32ZA(2)(i) inserted by art. 9(15) of S.I. 2015/1985 as from 6.4.16.

<sup>10</sup>Reg. 32ZA(2)(j) inserted by reg. 2(4) of S.I. 2016/544 as from 15.6.16.

<sup>11</sup>Reg. 32A inserted by reg. 4 of S.I. 2002/1789 as from 28.10.02.

▶<sup>11</sup>**Information given electronically**

**32A.**—(1) Where this regulation applies a person may give any certificate, notice, information or evidence required to be given and in particular may give notice of any change of circumstances required to be notified under regulation 32 by means of any electronic communication, in accordance with the provisions set out in Schedule 9C.

(2) This regulation applies in relation to child benefit.◀

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(a) S.I. 2006/213. “Relevant authority” is defined under regulation 2(1) as “an authority administering housing benefit”.

►<sup>1</sup>Information relating to awards of benefits

**32B.**—(1) Where an authority or person to whom paragraph (2) applies has arranged with the Secretary of State for the authority or person to receive claims for a specified benefit or obtain information or evidence relating to claims for a specified benefit in accordance with regulation 4 or 4D, the authority or person may—

- (a) receive information or evidence which relates to an award of that benefit and which is supplied by—
  - (i) the person to whom the award has been made; or
  - (ii) other persons in connection with the award,
 and shall forward it to the Secretary of State as soon as reasonably practicable;
- (b) verify any information or evidence supplied; and
- (c) record the information or evidence supplied and hold it (whether as supplied or recorded) for the purpose of forwarding it to the Secretary of State.

(2) This paragraph applies to—

- (a) a local authority administering housing benefit ►<sup>2</sup>◄;
- (b) a county council in England;
- (c) a person providing services to a person mentioned in sub-paragraph (a) or (b);
- (d) a person authorised to exercise any function of a local authority relating to housing benefit or council tax benefit;
- (e) a person authorised to exercise any function a county council in England has under section 7A of the Social Security Administration Act 1992►<sup>3</sup>;
- (ee) employment and support allowance.◄

(3) In paragraph (1), “specified benefit” means one or more of the following benefits—

- (a) attendance allowance;
- (b)-(c) ►<sup>4</sup>◄
- (d) carer’s allowance;
- (e) disability living allowance;
- (f) incapacity benefit;
- (g) income support;
- (h) jobseeker’s allowance;
- (i) retirement pension;
- (j) state pension credit;
- (k) widowed parent’s allowance;
- (l) winter fuel payment;◄
- <sup>5</sup>(m) state pension under Part 1 of the Pensions Act 2014.◄

<sup>1</sup>Reg. 32B inserted by reg. 6(5) of S.I. 2007/2911 as from 31.10.07.

<sup>2</sup>Words in reg. 32B(2)(a) revoked by Sch. 1 of S.I. 2013/458 as from 1.4.13.

<sup>3</sup>Para. (3)(ee) inserted in reg. 32B by reg. 2(7) of S.I. 2009/1490 as from 13.7.09.

<sup>4</sup>Paras. (3)(b) & (c) omitted by art. 10(11) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

<sup>5</sup>Reg. 32B(3)(m) inserted by art. 9(16) of S.I. 2015/1985 as from 6.4.16.

## 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 <sup>1</sup>deputy has been appointed by the Court of Protection <sup>1</sup>under Part 1 of the Mental Capacity Act 2005(a) or receiver appointed under Part 7 of the Mental Health Act 1983(b) but treated as a deputy by virtue of the Mental Capacity Act 2005 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 <sup>2</sup>a judicial factor or any guardian acting or appointed under the adults with Incapacity (Scotland) Act 2000(c) who has power to claim or, as the case may be, receive benefit on his behalf,

<sup>1</sup>Words substituted and inserted in reg. 33(1)(c) by reg. 2(14) of S.I. 2007/2470 as from 24.9.07.

<sup>2</sup>Words substituted in regs. 33(1)(d) & 33(2) by regs. 7(7)(a) & (c) of S.I. 2005/337 as from 18.3.05.

<sup>3</sup>Words inserted in reg. 33(1)-(2) by regs. 15, 20, 22 & 23 of S.I. 1999/2572 as from 5.10.99.

<sup>4</sup>Reg. 33(1A) substituted by Sch. 2(2) of S.I. 2013/458 as from 1.4.13.

<sup>5</sup>Words inserted in regs. 33(2)-(3) & 34 by regs. 15, 20, 22 & 23 of S.I. 1999/2572 as from 5.10.99.

<sup>6</sup>Words substituted in regs. 33(3) by regs. 7(7)(d) of S.I. 2005/337 as from 18.3.05.

<sup>7</sup>Words substituted in reg. 33(3) by reg. 16 of S.I. 1991/2741 as from 3.2.92.

<sup>8</sup>Words substituted in reg. 33(3) by reg. 8 of S.I. 2002/2441 as from 23.10.02.

<sup>9</sup>Reg. 34 renumbered, words inserted in reg. 34(1) inserted by reg. 2(8) of S.I. 2000/1982 as from 19.3.01.

<sup>10</sup>Words in reg. 34 substituted by reg. 5 of S.I. 1992/2595 as from 4.1.93.

<sup>11</sup>Para. (2) inserted in reg. 34 by reg. 2(8)(b) of S.I. 2000/1982 as from 19.3.01.

the Secretary of State <sup>3</sup>or the Board may, upon written application made to him <sup>3</sup>or them 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.

<sup>4</sup>(1A) Where a person has been appointed under regulation 82(3) of the Housing Benefit Regulations 2006 or regulation 63(3) of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 by a relevant authority within the meaning of those Regulations to act on behalf of another in relation to a benefit claim or award, the Secretary of State may, if the person agrees, treat him as if he had appointed him under paragraph (1).

(2) Where the Secretary of State has made <sup>3</sup>or the Board have made an appointment <sup>2</sup>, or treated an appointment as made, under paragraph (1)—

- (a) he <sup>5</sup>or they 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 <sup>5</sup>or the Board of his intention to do so;
- (c) any such appointment shall terminate when the Secretary of State is notified <sup>5</sup>or the Board are 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, <sup>6</sup>judicial factor or guardian, if any, or by or to the person appointed under this regulation or regulation 43 <sup>7</sup>(disability living allowance for a child) and <sup>8</sup>a direct credit transfer under regulation 21 into the account of any person so appointed, or the receipt by him of a payment made by some other means, shall be a good discharge to the Secretary of State <sup>5</sup>or the Board for any sum paid.

### Payment to another person on the beneficiary's behalf

<sup>9</sup>34.—(1) Except in a case to which paragraph (2) applies, the Secretary of State <sup>5</sup>or the Board may direct that benefit shall be paid, wholly or in part, to <sup>10</sup>another natural person on the beneficiary's behalf if such a direction as to payment appears to the Secretary of State <sup>5</sup>or the Board to be necessary for protecting the interests of the beneficiary, or any child or dependant in respect of whom benefit is payable.

<sup>11</sup>(2) The Secretary of State may direct that a joint-claim jobseeker's allowance shall be paid wholly or in part to a natural person who is not the member of the joint-claim couple who is the nominated member for the purposes of section 3B of the

- (a) 2005 c. 9.
- (b) 1983 c. 20.
- (c) 2000 asp 4.



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Jobseeker's Act if such a direction as to payment appears to the Secretary of State <sup>1</sup>or the Board <sup>1</sup> to be necessary for protecting the interests of the other member of that couple or, as the case may be, both members of that couple. <sup>1</sup>

<sup>1</sup>Words in reg. 34 inserted by reg. 20 & Sch. to S.I. 1999/2572 as from 5.10.99.

**<sup>2</sup>Deductions of mortgage interest which shall be made from benefit and paid to qualifying lenders**

**34A.**—(1) <sup>3</sup>In relation to cases to which section 15A(1) or (1A) of the Social Security Administration Act 1992(a) <sup>4</sup>(payment out of benefit of sums in respect of mortgage interest etc.) applies and in the circumstances specified in Schedule 9A, such part of any relevant benefits to which a relevant beneficiary is entitled as may be specified in that Schedule shall be paid by the Secretary of State directly to the qualifying lender and shall be applied by that lender towards the discharge of the liability in respect of that mortgage interest(b) <sup>4</sup>or, insofar as the payment exceeds that liability, in accordance with paragraph 4A of that Schedule <sup>4</sup>.

<sup>2</sup>Reg. 34A inserted by reg. 3 of S.I. 1992/1026 as from 25.5.92.

<sup>3</sup>Words in reg. 34A(1) substituted by reg. 12 of S.I. 2002/3019 as from 7.4.03.

<sup>5</sup>(1A) Paragraph (1) shall only apply in relation to a relevant beneficiary who is entitled to state pension credit where he is entitled to a guarantee credit. <sup>4</sup>

<sup>4</sup>Words inserted & substituted in reg. 34A by reg. 2(2)(a) of S.I. 2010/796 as from 8.4.10.

<sup>4</sup>(2) The provisions of Schedule 9A shall have effect in relation to payments made under this regulation. <sup>4</sup>

<sup>5</sup>Reg. 34A(1A) & 34B inserted by reg. 5(2)(b) & 5(3) of S.I. 2002/3197 as from 7.4.03.

**<sup>5</sup>Deductions of mortgage interest which may be made from benefits and paid to qualifying lenders in other cases**

**34B.**—(1) In relation to cases to which section 15A(1A) of the Social Security Administration Act 1992(a) applies (other than those referred to in regulation 34A(1A))—

- (a) in the circumstances specified in paragraph 2A(1) of Schedule 9A: and
- (b) in either of the further circumstances specified in paragraph 2A(2) of that Schedule,

such part of any relevant benefits to which a relevant beneficiary is entitled as may be specified in that Schedule may be paid by the Secretary of State directly to the qualifying lender and shall be applied by that lender towards the discharge of the

(a) Section 15A(1A) was inserted by the State Pension Credit Act 2002 (c. 16), Schedule 2, paragraph 9(2).

(b) See s. 51(c) of the Social Security Act 1986 (re-enacted w.e.f. 1.7.92 in s. 15A of S.S. Admin. Act 1992 (c. 5)) for definitions of “relevant benefits”, “relevant beneficiary”, “qualifying lender” and “mortgage interest”.



liability in respect of that interest(a) ▶<sup>1</sup>or, insofar as the payment exceeds that liability, in accordance with paragraph 4A of that Schedule◀.

▶<sup>2</sup>(2) The provisions of Schedule 9A shall have effect in relation to payments made under this regulation.◀

### ▶<sup>2</sup>▶<sup>3</sup>Deductions which may be made from benefit and paid to third parties

**35.**—(1) Except as provided for in regulation 34A and Schedule 9A, 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 ▶<sup>4</sup>and Schedule 9B◀.

(2) Where a social fund payment for maternity or funeral expenses ▶<sup>5</sup>or expenses for heating which appear to the Secretary of State to have been or to be likely to be incurred in cold weather◀ is made, wholly or in part, in respect of a debt which is, or will be, due to a third person, the ▶<sup>6</sup>payment may be, and in the case of funeral expenses shall be, made to that person where an instrument of payment is made payable to that person it may be sent to the beneficiary.◀◀

**35A.** ▶<sup>7</sup>◀

### Payment to a partner as alternative payee

**36.**▶<sup>8</sup>—(1)◀ ▶<sup>9</sup>Except where a wife has elected in accordance with regulation 6A of the Social Security (Guardian's Allowances) Regulations 1975(b) (prescribed manner of making an election under section 77(9) of the Social Security Contributions and Benefits Act 1992) that guardian's allowance is not to be paid to her husband,◀ where one of a married or unmarried couple residing together is entitled to child benefit ▶<sup>10</sup>working families' tax credit, disabled person's tax credit◀ ▶<sup>9</sup>or guardian's allowance◀ the Secretary of State may ▶<sup>10</sup>or the Board◀ 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.

▶<sup>8</sup>(2) Where a person is entitled to a winter fuel payment within the meaning of the Social Fund Winter Fuel Payment Regulations 2000(c) and—

- (a) that person is one ▶<sup>11</sup>member of a◀ couple or a member of a polygamous marriage;
- (b) the other member of that couple or another member of that marriage (“the other person”) is in receipt of income support ▶<sup>12</sup>, an income-based jobseeker's allowance or an income-related employment and support allowance◀ and
- (c) both members of the couple or marriage are living together within the meaning of regulation 1(3)(b) of those Regulations(d),

the Secretary of State may pay the winter fuel payment to the other person on behalf of the person entitled to the payment as an alternative to paying the person entitled notwithstanding that ▶<sup>13</sup>in the qualifying week the other person has not yet attained the qualifying age.◀◀

[Regulation 36A deleted by regulation 18 of S.I. 1991/2741 as from 6.4.92.]

## PART V

### ▶<sup>14</sup>◀ EXTINGUISHMENT

**37.-37B.** ▶<sup>14</sup>◀

(a) See s. 51(c) of the Social Security Act 1986 (re-enacted w.e.f. 1.7.92 in s. 15A of S.S Admin Act 1992 (c. 5)) for definitions of “relevant benefits”, “relevant beneficiary”, “qualifying lender” and “mortgage interest”.

(b) S.I. 1975/515; reg. 6A was inserted by S.I. 1977/342.

(c) S.I. 2000/729.

(d) Reg. 1(3) was substituted by S.I. 2001/3375.

<sup>1</sup>Words inserted and substituted in reg. 34B by regs. 2(2)(b) of S.I. 2010/796 as from 8.4.10.

<sup>2</sup>Reg. 35 substituted by reg. 7 of S.I. 1988/522 as from 11.4.88.

<sup>3</sup>Heading, and words in reg. 35(1), substituted by reg. 4 of S.I. 1992/1026 as from 25.5.92 (or later, see reg. 1(4) *ibid.*).

<sup>4</sup>Words inserted in reg. 35(1) by reg. 2(a) of S.I. 2001/18 as from 31.1.01.

<sup>5</sup>Words substituted in reg. 35(2) by reg. 9 of S.I. 2002/2441 as from 8.04.03.

<sup>6</sup>Words inserted into reg. 35(2) by reg. 3(7) of S.I. 1998/1725 as from 7.11.88.

<sup>7</sup>Reg. 35A omitted by reg. 13(2) of S.I. 2005/2687 as from 24.10.05.

<sup>8</sup>Reg. 36 renumbered as 36(1) & 36(2) inserted by reg. 2(3) of S.I. 2002/2660 as from 2.11.02.

<sup>9</sup>Words substituted in reg. 36 by reg. 2(6) of S.I. 1999/2358 as from 20.9.99.

<sup>10</sup>Words inserted in regs. 36 & 38(1)(a) by regs. 20, 24 and 25 of S.I. 1999/2572 as from 5.10.99.

<sup>11</sup>Words in reg. 36(2)(a) substituted by para. 14(8) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

<sup>12</sup>Words substituted in reg. 36(2)(b) by reg. 23 of S.I. 2008/1554 as from 27.7.08.

<sup>13</sup>Words substituted in reg. 36(2) by reg. 6(2) of S.I. 2009/488 as from 6.4.10.

<sup>14</sup>Words in heading and regs. 37 to 37B omitted for various benefits by S.I. 1999/1958 as from 5.7.99 and for all other benefits by paras. 11 and 12 of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

## Reg. 38

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

<sup>1</sup>Words substituted in reg. 38(1) by reg. 7(2) of S.I. 1989/1686 as from 9.10.89.

<sup>2</sup>Words inserted in reg. 38(1)(a) by reg. 20 of S.I. 1999/2572 as from 5.10.99.

<sup>3</sup>Sub-para. (aa) & words in reg. 38(1)(c) omitted by reg. 2(11)(a) & (b) of S.I. 2006/832 as from 10.4.06.

<sup>4</sup>Sub-para. (bb) inserted & words substituted in reg. 38(1)(c) by reg. 7(8)(a) & (b) of S.I. 2005/337 as from 18.3.05.

<sup>5</sup>Words in reg. 38(1)(bb) substituted by reg. 15(3) of S.I. 2012/757 as from 1.4.12.

<sup>6</sup>Words substituted in reg. 38(1)(c) by reg. 2(5) of S.I. 1996/672 as from 4.4.96.

<sup>7</sup>Words added to reg. 38(1)(c) & inserted in (2A)(a) by reg. 18(a) & (b)(i) of S.I. 1999/2572 as from 5.10.99.

<sup>8</sup>Para. (2A) inserted into reg. 38 by reg. 7(3) of S.I. 1989/1686 as from 9.9.89.

<sup>9</sup>Words substituted and omitted in reg. 38(2A) by para. 6 of Sch. 7 to S.I. 1999/2422 as from 6.9.99.

<sup>10</sup>Words substituted and omitted in reg. 38(2A)(a) and (c) by para. 13 of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

<sup>11</sup>Sub-para. (c) of reg. 38(2A) substituted for sub-paras. (c) and (d) by reg. 3(8) of S.I. 1993/2113 as from 27.9.93.

<sup>12</sup>Word "automated" substituted by "direct" by reg. 10 of S.I. 2002/2441 as from 8.04.03.

**38.—(1)** <sup>1</sup>Subject to paragraph (2A), the right to payment of any sum by way of benefit shall be extinguished<sup>2</sup> 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 <sup>2</sup>or the Board<sup>3</sup> for collection by him (whether or not received or collected as the case maybe)—

(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;

(aa) <sup>3</sup>

(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;

<sup>4</sup>(bb) in relation to any such sum which <sup>5</sup>the Secretary of State has<sup>6</sup> arranged to be paid by means of direct credit transfer into a bank or other account, on the due date for payment of the sum;<sup>4</sup>

(c) in relation to any such sum to which <sup>6</sup>none of (a), <sup>3</sup><sup>4</sup>, (b) or (bb)<sup>4</sup> apply<sup>4</sup>, on such date as the Secretary of State determines <sup>7</sup>or the Board determine<sup>4</sup>.

(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.

<sup>8</sup>(2A) Where a question arises whether the right to payment of any sum by way of benefit has been extinguished by the operation of this regulation and the <sup>9</sup>Secretary of State<sup>4</sup> is satisfied that—

(a) <sup>10</sup>he<sup>4</sup> first received <sup>6</sup>or the Board have first received<sup>4</sup> written notice requesting payment of that sum after the expiration of 12 months; and

(b) from a day within that period of 12 months and continuing until the day the written notice was given, there was good cause for not giving the notice; and

<sup>11</sup>(c) <sup>10</sup>either—

(i) <sup>10</sup>no instrument of payment has been given or sent to the person to whom it is payable and <sup>10</sup>no payment has been made under the provisions of regulation 21 (<sup>12</sup>direct<sup>4</sup> credit transfer); or

(ii) <sup>10</sup>such instrument has been produced to <sup>10</sup>the Secretary of State<sup>4</sup> and <sup>10</sup>no further instrument has been issued as a replacement,<sup>4</sup>

the period of 12 months shall be extended to the date on which the <sup>9</sup>Secretary of State<sup>4</sup> decides that question, and this regulation shall accordingly apply as though the right to payment had arisen on that date.<sup>4</sup>

(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

▶<sup>1</sup>MOBILITY COMPONENT OF DISABILITY LIVING ALLOWANCE AND DISABILITY LIVING ALLOWANCE FOR CHILDREN◀

<sup>1</sup>Part VI heading substituted by reg. 19(a) of S.I. 1991/2741 as from 3.2.92.

[Regulations 39 to 41 deleted by regulation 19(b) of S.I. 1991/2741 as from 3.2.92(extended to 6.4.92 by reg. 29 *ibid.* for adjudication purposes).]

**Cases where allowance not to be payable**

42.—(1) Subject to the provisions of this regulation, ▶<sup>2</sup>disability living allowance by virtue of entitlement to the mobility component◀ shall not be payable to any person who would otherwise be entitled to it in respect of any period—

<sup>2</sup>Words substituted for “an allowance” in reg. 42(1) by reg. 20(a) of S.I. 1991/2741 as from 3.2.92.

- (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(a) or section 46 of the National Health Service (Scotland) Act 1978(b) 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(c) or the Personal Injuries (Civilians) Scheme 1983(d), or under the said Order by virtue of the War Pensions (Naval Auxiliary Personnel) Scheme 1964(e), the Pensions (Polish Forces) Scheme 1964(f), the War Pensions (Mercantile Marine) Scheme 1964(g) or an Order of Her Majesty in relation to the Home Guard dated 21st December 1964(h) or 22nd December 1964(i), or in relation to the Ulster Defence Regiment dated 4th January 1971(j),

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 ▶<sup>3</sup>disability living 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

<sup>3</sup>Words substituted for “mobility allowance” in reg. 42(3) by reg. 20(b)(i) of S.I. 1991/2741 as from 3.2.92.

(a) 1977 c. 49.

(b) 1978 c. 29.

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

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

(e) S.I. 1964/1985.

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

(g) S.I. 1964/2958.

(h) Cmnd 2563.

(i) Cmnd 2564.

(j) Cmnd 4567.

## Regs. 42-43

<sup>1</sup>Words substituted for reference to rate of mobility allowance in reg. 42(3) by reg. 20(b)(ii) of S.I. 1991/2741 as from 3.2.92.

and, where in respect of any such week a person is treated as having a weekly amount so calculated which is less than the week rate of <sup>1</sup>mobility component of disability living allowance to which, apart from paragraph (1), he would be entitled<sup>1</sup>, 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 the 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 person will use <sup>2</sup>disability living allowance by virtue of entitlement to the mobility component<sup>2</sup> in whole or in part during the said period towards meeting the expense of acquiring the car,

<sup>2</sup>Words substituted for “mobility allowance” in reg. 42(4)(c) by reg. 20(c) of S.I. 1991/2741 as from 3.2.92.

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**

<sup>3</sup>Words substituted for “an allowance” in reg. 43(1) by reg. 21(a) of S.I. 1991/2741 as from 3.2.92.

**43.—**(1) In any case where a claim for <sup>3</sup>disability living allowance<sup>3</sup> 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 <sup>3</sup>disability living allowance<sup>3</sup> and to receive and deal on his behalf with any sums payable by way of <sup>3</sup>that allowance<sup>3</sup>.

(2) Subject to the following provision 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<sup>4</sup>; or, if the person is a parent of the child and living with him, be over the age of 16<sup>4</sup>; 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
- (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.

<sup>4</sup>Words inserted in reg. 43(2)(b) by reg. 7(9)(a) of S.I. 2005/337 as from 18.3.05.

(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 <sup>5</sup>12 weeks<sup>5</sup>; 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 particular case determine;

<sup>5</sup>Period substituted for “8 weeks” in reg. 43(3)(a) by reg. 21(b) of S.I. 1991/2741 as from 3.2.92.

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 <sup>1</sup>12 weeks<sup>1</sup> the appointment shall not terminate by virtue of this paragraph until such period has lasted for <sup>1</sup>12 weeks<sup>1</sup>.

(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 purposes 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 <sup>2</sup>disability living allowance<sup>2</sup> 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 <sup>2</sup>disability living allowance<sup>2</sup> may be payable by virtue of an appointment under this regulation, the Secretary of State may, upon application made to him by the <sup>3</sup>health authority<sup>3</sup>,<sup>2</sup> National Health Service Trust<sup>4</sup>, NHS Foundation Trust<sup>4</sup> 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 <sup>2</sup>or Trust<sup>4</sup> nominated for the purpose by the authority<sup>2</sup> or Trust<sup>4</sup>, appoint that authority <sup>2</sup>or Trust<sup>4</sup> or the nominated officer thereof or such other person as the Secretary of State may, after consultation with that authority <sup>2</sup>or Trust<sup>4</sup>, 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 <sup>2</sup>disability living allowance<sup>2</sup> for any period during which he is an in-patient in a hospital or similar institution under the control of that authority <sup>2</sup>or Trust<sup>4</sup>.

(7) For the purposes of this regulation—

<sup>3</sup>

<sup>5</sup> “child” means a person under the age of 16;<sup>4</sup>

“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;

<sup>6</sup> “health authority” means—

- (a) <sup>7</sup>
- (b) in relation to Wales, a Health Authority established under section 8 of that Act; and
- (c) in relation to Scotland, a Health Board within the meaning of the National Health Service (Scotland) Act 1978;<sup>4</sup>

<sup>1</sup>Period substituted for “8 weeks” in reg. 43(4) by reg. 21(c) of S.I. 1991/2741 as from 3.2.92.

<sup>2</sup>Words substituted & inserted in reg. 43(5) & (6) by reg. 21(d) & (e) of S.I. 1991/2741 as from 3.2.92.

<sup>3</sup>Words substituted in reg. 43(6) & defn. of “district health authority” omitted in reg. 43(7) by para. 44 of Sch. 1 to S.I. 2002/2469 as from 1.10.02

<sup>4</sup>Words inserted in reg. 43(6) by Sch. 3 of S.I. 2004/696 as from 1.4.04.

<sup>5</sup>Defn. of “child” inserted in para (7) by reg. 7(9)(b) of S.I. 2005/337 as from 18.3.05.

<sup>6</sup>Defn. of “health authority” inserted by para. 44 of Sch. 1 to S.I. 2002/2469 as from 1.10.02.

<sup>7</sup>Sub-para. (a) in defn. of “health authority” omitted by para. 11 of Sch. 2 to S.I. 2013/235 as from 1.4.13.

## Regs. 43-44

“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(a) and, in relation to Scotland, a local authority as defined in the Local Government (Scotland) Act 1973(b); “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(c); 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(d).

<sup>1</sup>Words substituted in heading of reg. 44 by reg. 22 of S.I. 1991/2741 as from 3.2.92.

<sup>2</sup>Words substituted for references to mobility allowance in reg. 44(a) by reg. 22 of S.I. 1991/2741 as from 3.2.92.

<sup>3</sup>Words inserted & omitted in reg. 3(a)-(d) by reg. 7(10)(a)-(d) of S.I. 2005/337 as from 18.3.05.

<sup>4</sup>Reg. 44(5) substituted by reg. 13 of S.I. 1990/2208 as from 5.12.90.

#### Payment of ►<sup>1</sup>disability living 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 ►<sup>2</sup>disability living allowance is payable by virtue of entitlement to the mobility component at the higher rate(e)◄ for the hire or hire-purchase of a vehicle, the Secretary of State may arrange that any ►<sup>2</sup>disability living allowance by virtue of entitlement to the mobility component at the higher rate 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 ►<sup>3</sup>◄ term of hire, the period of the ►<sup>3</sup>◄ 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 ►<sup>3</sup>◄ term of hire ►<sup>3</sup>other than where sub-paragraph (d) applies,◄ the period of the ►<sup>3</sup>◄ 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 ►<sup>3</sup>◄ 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 ►<sup>3</sup>◄ term of hire►<sup>3</sup>; or
- (d) where the original term of hire is extended by an agreed variation of the agreement, the period of the extended term.◄

(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
- (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.

►<sup>4</sup>(5) In this regulation “Motability” means the company, set up under that name as a charity and originally incorporated under the Companies Act 1985(f) and subsequently incorporated by Royal Charter.◄

(a) 1972 c. 70.

(b) 1973 c. 65.

(c) 1970 c. 42.

(d) 1968 c. 49.

(e) Conditions for entitlement to the mobility component at the higher rate are referred to in s. 37ZC(11)(a) of the Disability Living Allowance and Disability Working Allowance Act 1991.

(f) 1985 c. 6.



**Recovery of expenses**

►<sup>1</sup>44A.—(1) Paragraph (2) applies where—

- (a) an agreement referred to in regulation 44(1) has been entered into; and
- (b) a relevant provider<sup>(a)</sup> is receiving payments of disability living allowance in settlement of liability for payments due under that agreement.

<sup>1</sup>Reg. 44A inserted by reg. 3 of S.I. 2016/674 as from 21.7.16.

(2) The Secretary of State may require the relevant provider to make payments to meet the reasonable expenses of the Secretary of State in administering the making of the payments of disability living allowance to the relevant provider.

(3) The method by which the expenses under paragraph (2) are to be met is for the Secretary of State to issue an invoice to the relevant provider setting out the expenses that have been incurred and for the relevant provider to pay the sum stated to the Secretary of State.

(4) The first invoice issued by the Secretary of State may recover expenses incurred between 21st July 2016 and the date of the invoice.

(5) Subsequently the Secretary of State may issue invoices no more frequently than annually and only in respect of expenses incurred since the period covered by the previous invoice.

(6) The expenses that the Secretary of State may take into account for the purposes of paragraph (2) include—

- (a) the salaries and other costs relating to the employment of staff wholly engaged in the administering of the payments of disability living allowance and where staff have other responsibilities an apportioned amount of those costs; and
- (b) overheads, including rent and other shared costs, relating to those staff.

(7) In determining what expenses were reasonably incurred in administering the making of payments of disability living allowance to a relevant provider, the Secretary of State must have regard to any agreement between the Secretary of State and the relevant provider concerning the level of service to be provided by the Secretary of State in the making of such payments to that relevant provider. ◀

**Power for the Secretary of State to terminate an arrangement**

45. The Secretary of State may terminate an arrangement for the payment of ►<sup>2</sup>disability living allowance by virtue of entitlement to the mobility component at the higher rate ◀ 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).

<sup>2</sup>Words substituted for “mobility allowance” in reg. 45 by reg. 23 of S.I. 1991/2741 as from 3.2.92.

**Restriction on duration of arrangements by the Secretary of State**

46. The Secretary of State shall end an arrangement for the payment of ►<sup>3</sup>disability living allowance by virtue of entitlement to the mobility component at the higher rate ◀ 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 removed following the return of the vehicle.

<sup>3</sup>Words substituted for “mobility allowance” in reg. 46 by reg. 24 of S.I. 1991/2741 as from 3.2.92.

(a) See section 15B(3) of the Social Security Administration Act 1992 for the definition of “relevant provider”.

PART VII  
MISCELLANEOUS

<sup>1</sup>Reg. 47 substituted by  
reg. 2(12) of S.I. 2006/  
832 as from 10.4.06.

►<sup>1</sup>**Instruments of payment**

**47.**—(1) Instruments of payment issued by the Secretary of State shall remain his property.

(2) Any person having an instrument of payment shall, on ceasing to be entitled to the benefit to which the instrument relates, or when so required by the Secretary of State deliver it to the Secretary of State or such other person as he may direct. ◀

**Revocation**

**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).

[Regulation 49 revoked by regulation 6 of S.I. 1992/2595 as from 16.11.92.]

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

<i>Benefit Claimed</i> (1)	<i>Alternative benefit</i> (2)	
▶ <sup>1</sup> Incapacity benefit◀	▶ <sup>1</sup> Severe disablement allowance.◀	<sup>1</sup> Words substituted by reg. 10 of S.I. 1994/2943 as from 13.4.95.
▶ <sup>2</sup> ◀	▶ <sup>2</sup> ◀	
Severe disablement allowance	▶ <sup>3</sup> Incapacity benefit.◀	<sup>2</sup> Words "unemployment benefit" deleted from col. (1) and associated words deleted from col. (2) by reg. 2(19)(a) of S.I. 1996/1460 as from 7.10.96.
▶ <sup>4</sup> ◀	▶ <sup>4</sup> ◀	
▶ <sup>5</sup> Incapacity benefit for a woman	Maternity allowance.◀	<sup>3</sup> Words in col. (2) substituted by reg. 10 of S.I. 1994/2943 as from 13.4.95.
Severe disablement allowance for a woman	Maternity allowance.	
▶ <sup>6</sup> Employment and support allowance for a woman◀	▶ <sup>6</sup> Maternity allowance.◀	<sup>4</sup> Words "an increase of unemployment benefit" deleted from col. (1) and associated words deleted from col. (2) by reg. 2(19)(b) of S.I. 1996/1460 as from 7.10.96.
Maternity allowance	▶ <sup>5</sup> Incapacity benefit ▶ <sup>6</sup> , severe disablement allowance or employment and support allowance.◀◀	
A retirement pension of any category	Widow's benefit ▶ <sup>7</sup> or bereavement benefit◀.	<sup>5</sup> Words substituted by reg. 10 of S.I. 1994/2943 as from 13.4.95.
A retirement pension of any category	A retirement pension of any other category ▶ <sup>8</sup> , a shared additional pension◀ ▶ <sup>9</sup> or graduated retirement benefit(a)◀.	
▶ <sup>10</sup> An increase of incapacity benefit◀	An increase of severe disablement allowance.	<sup>6</sup> Words inserted in cols. (1) & (2) & words substituted in col. 2 by reg. 24(a) & (b) of S.I. 2008/1554 as from 27.7.08.
Attendance allowance	An increase of disablement pension where constant attendance is needed.	
An increase of disablement pension where constant attendance is needed	Attendance allowance ▶ <sup>11</sup> or disability living allowance◀.	<sup>7</sup> Words inserted in col. (2) by reg. 9(5) of S.I. 2000/1483 as from 9.4.01.
An increase of severe disablement allowance	▶ <sup>12</sup> An increase of incapacity benefit.◀	
Income support	▶ <sup>13</sup> ▶ <sup>14</sup> ◀ or ▶ <sup>15</sup> a carer's allowance◀.	<sup>8</sup> Words inserted in col. 2 by reg. 2(9) of S.I. 2005/1551 as from 6.7.05.

(a) Graduated retirement benefit was paid under s. 36 and 37 of the National Insurance Act 1965 (c. 51) which were repealed by the Social Security Act 1973 (c. 38) and saved by reg. 3 of the Social Security (Graduated Retirement Benefit) (No. 2) Regs. 1978 (S.I. 1978/393).

<sup>9</sup>Words added by reg. 8 of S.I. 1988/522 as from 11.4.88.

<sup>10</sup>Words substituted by reg. 10 of S.I. 1994/2943 as from 13.4.95.

<sup>11</sup>Words inserted in col. (2) by reg. 25(a)(i) of S.I. 1991/2741 as from 3.2.92.

<sup>12</sup>Words substituted by reg. 10 of S.I. 1994/2943 as from 13.4.95.

<sup>13</sup>Words "Supplementary benefit" deleted from col. (2) by reg. 7 of S.I. 1992/2595 as from 16.11.92.

<sup>14</sup>Words "attendance allowance" deleted from col. (2) by reg. 25(a)(ii) of S.I. 1991/2741 as from 6.4.92.

<sup>15</sup>Words substituted in col. 2 by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

## Sch. 1

## SCHEDULE 1 (contd)

<i>Benefit Claimed</i> (1)	<i>Alternative benefit</i> (2)
<sup>1</sup> Words added to Sch. 1 by reg. 14 of S.I. 1990/2208 as from 5.12.90.	▶ <sup>1</sup> Widow's benefit ▶ <sup>2</sup> or bereavement benefit◀
<sup>2</sup> Words inserted in col. (1) by reg. 9(5) of S.I. 2000/1483 as from 9.4.01.	▶ <sup>3</sup> Disability living allowance
<sup>3</sup> Entries added to Sch. 1 by reg. 25(b) of S.I. 1991/2741 as from 3.2.92.	Attendance allowance or an increase of disablement pension where constant attendance is needed
<sup>4</sup> Words substituted in Sch. 1 by regs. 24 and 25 of S.I. 1999/2572 as from 5.10.99.	▶ <sup>4</sup> Disabled person's tax credit◀ ▶ <sup>4</sup> Working families' tax credit◀
<sup>5</sup> Words inserted in cols. (1) & (2) by art. 10(12)(a) & (b) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.	▶ <sup>5</sup> Bereavement benefit Bereavement support payment◀
<sup>6</sup> Words inserted in Cols. (1) & (2) by art. 9(17) of S.I. 2015/1985 as from 6.4.16.	▶ <sup>6</sup> A state pension under any section of Part 1 of the Pensions Act 2014◀ ▶ <sup>6</sup> Bereavement benefit◀
	A retirement pension of any category or graduated retirement benefit.◀ Attendance allowance or an increase of disablement pension where constant attendance is needed. Disability living allowance.◀ ▶ <sup>4</sup> Working families' tax credit◀ ▶ <sup>4</sup> Disabled person's tax credit◀ ▶ <sup>5</sup> Bereavement support payment Bereavement benefit◀ ▶ <sup>6</sup> A state pension under any section of Part 1 of the Pensions Act 2014 or bereavement benefit◀ ▶ <sup>6</sup> A state pension under Part 1 of the Pensions Act 2014◀

In this Part of this Schedule—

- (a) reference 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.

## PART II

Regulation 9(2) and (3)

## INTERCHANGE OF CLAIMS FOR CHILD BENEFIT WITH CLAIMS FOR OTHER BENEFITS

<sup>7</sup>Words in Part II of Sch. 2 deleted by reg. 20 of S.I. 1996/1803 as from 7.4.97.

▶<sup>7</sup>◀

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.



## Sch. 2

## SCHEDULE 2

Regulation 17(5)

**SPECIAL PROVISIONS RELATING TO CLAIMS FOR  
▶JOBSEEKER'S ALLOWANCE◀ DURING PERIODS CONNECTED  
WITH PUBLIC HOLIDAYS**

Words in heading to Sch. 2, and words in para. 1(1)(b), substituted by reg. 2(20)(a) and (b)(i) respectively of S.I. 1996/1460 as from 7.10.96.

**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(a) 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 ▶office of the Department for Education and Employment◀ 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 ▶a jobseeker's allowance◀ is made during one of the periods set out in paragraph(3), the following provisions shall apply—**

- (a) a claim for ▶a jobseeker's allowance◀ may be treated by ▶the Secretary of State◀ 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);
- (b) on any claim so treated, benefit may be awarded as if the provision 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 (duration of disallowance) deleted by reg. 2(21) of S.I. 1996/1460 as from 7.10.96.]**

Words in para. 1(2) substituted by reg. 2(20)(b)(ii) of S.I. 1996/1460 as from 7.10.96. Words in para. 1(2)(a) substituted for various benefits by S.I. 1999/2860 as from 18.10.99 and for all other benefits by para. 14 of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

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(a) 1971 c. 80.

## SCHEDULE 4

Regulation 19(1)

## Sch. 4

## PRESCRIBED TIMES FOR CLAIMING BENEFIT

<i>Description of benefit</i> (1)	<i>Prescribed time for claiming benefit</i> (2)	
1. ▶ <sup>1</sup> Jobseeker's allowance	The first day of the period in respect of which the claim is made◀	<sup>1</sup> Para. 1 of Sch. 4 substituted by reg. 2(22) of S.I. 1996/1460 as from 7.10.96.
▶ <sup>2</sup> 2. Incapacity benefit or severe disablement allowance–	The day in respect of which the claim is made and the period of ▶ <sup>3</sup> 3 months◀ immediately following it.◀	<sup>2</sup> Para. 2 of Sch. 4 substituted by reg. 12 of S.I. 1994/2943 as from 13.4.95.
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.	<sup>3</sup> Words in col. 2 para. 2 substituted by reg. 7 of S.I. 1997/793 as from 7.4.97.
<i>See also the transitional provision in reg. 9 of S.I. 1993/1985 in relation to prescribed disease no. D12 (bronchitis/emphysema).</i>		
4. Increase of disablement benefit under section 61 (constant attendance), 62 (constant attendance), or 63 (exceptionally severe and 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 the 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 percent. and the making of a claim, the claimant is entitled to the allowance, that day and the period of 3 months immediately following it.	
6. Income support.	The first day of the period in respect of which the claim is made.	
7. ▶ <sup>4</sup> Working families' tax credit◀	(a) Where ▶ <sup>4</sup> working families' tax credit◀ has previously been claimed and awarded the period beginning 28 days before and ending 14 days after the last day of that award;	<sup>4</sup> Words substituted in para. 7 by regs. 24 and 25 & the Sch. of S.I. 1999/2572 as from 5.10.99.
	▶ <sup>5</sup> (aa) where ▶ <sup>4</sup> disabled person's tax credit◀ has previously been claimed and awarded the period beginning 42 days before and ending 14 days after the last day of that award of ▶ <sup>4</sup> disabled person's tax credit◀;◀	<sup>5</sup> Co. 2, para. 7(aa) inserted and ref. in sub-para. (b) substituted in col. (2) of para. 7 by reg. 26(a) of S.I. 1991/2741 as from 10.3.92.
	(b) subject to ▶ <sup>5</sup> (a) and (aa)◀, the first day of the period in respect of which the claim is made	
	▶ <sup>6</sup> (c) where a claim for ▶ <sup>4</sup> working families' tax credit◀ is treated as if made for a period beginning with the relevant day by virtue of regulation 13 of these	<sup>6</sup> Sub-para. (c) inserted into para. 7 col. (2) by reg. 10 of S.I. 1991/2284 as from 1.11.91.

## Sch. 4

SCHEDULE 4 (*contd.*)

<i>Description of benefit</i> (1)	<i>Prescribed time for claiming benefit</i> (2)
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Regulations, the period beginning on 10th March 1992 and ending on 6th April 1992.◀

<sup>1</sup>Column 2 of para. 8. substituted by reg. 3(2) of S.I. 2010/2760 as from 13.12.10.

**8.** Social fund payment in respect of maternity expenses.

▶<sup>1</sup>(a) In a case where regulation 5(3)(a) of the Social Fund Maternity and Funeral Expenses (General) Regulations 2005 applies (“the 2005 Regulations”), the period beginning 11 weeks before the first day of the expected week of confinement and ending ▶<sup>2</sup>6 months◀ after the actual date of confinement.

<sup>2</sup>In each of the entries (a) to (f) in column 2, words substituted by reg. 2 of S.I. 2018/989 as from 18.10.18.

<sup>3</sup>Para. 8(b) of Sch. 4 substituted by reg. 4 of S.I. 2011/100 as from 24.1.11.

▶<sup>3</sup>(b) In a case where regulation 5(3)(b) of the 2005 Regulations applies, the period beginning with the date on which the claimant becomes responsible for the child and ending ending ▶<sup>2</sup>6 months◀ after that date.◀

(c) In a case where regulation 5(3)(c) of the 2005 Regulations applies, the period beginning with the date on which an order referred to in that sub-paragraph is made and ending ▶<sup>2</sup>6 months◀ after that date.

(d) In a case where regulation 5(3)(d) of the 2005 Regulations applies, the period beginning with the date on which the guardianship takes effect and ending ▶<sup>2</sup>6 months◀ after that date.

(e) In a case where regulation 5(3)(e) of the 2005 Regulations applies, the period beginning with the date on which the child is placed with the claimant or the claimant’s partner for adoption and ending ▶<sup>2</sup>6 months◀ after that date.

(f) In a case where regulation 5(3)(f) of the 2005 Regulations applies, the period beginning with the date on which the adoption—

(i) takes effect in respect of an adoption mentioned in section 66(1)(c) or (d), or

(ii) is recognised under section 66(1)(e) of the Adoption and Children Act 2002, and ending ▶<sup>2</sup>6 months◀ after that date.◀

<sup>4</sup>Col. (2) entry for para. 9 substituted by reg. 6 of S.I. 1996/2306 as from 7.10.96.

**9.** Social fund payment in respect of funeral expenses.

▶<sup>4</sup>The period beginning with the date of death and ending 3 months after the date of the funeral.◀



## Sch. 4

9A. ▶<sup>1</sup>◀

10. Increase of disablement benefit under ▶<sup>2</sup>section 60 of the Social Security Act 1975 on grounds of special hardship(a) or◀ section 62 of the Social Security Act 1975(b) 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.

<sup>1</sup>Para. 9A deleted by reg. 11 of S.I. 1991/2284 as from 1.11.91.

<sup>2</sup>Words in para. 10 inserted by reg. 9 of S.I. 1988/522 as from 11.4.88.

▶<sup>3</sup>11. ▶<sup>4</sup>Disabled person's tax credit◀.

- (a) Where ▶<sup>4</sup>Disabled person's tax credit◀ has previously been claimed and awarded the period beginning 42 days before and ending 14 days after the last day of that award;
- (b) where ▶<sup>4</sup>working families' tax credit◀ has previously been claimed and awarded the period beginning 28 days before and ending 14 days after the last day of that award of ▶<sup>4</sup>working families' tax credit◀;
- (c) subject to (a) and (b), the first day of the period in respect of which the claim is made;
- (d) where a claim for ▶<sup>4</sup>Disabled person's tax credit◀ is made by virtue of regulation 13B(1), the period beginning on 10th March 1992 and ending on 6th April 1992◀.

<sup>3</sup>Para. 11 added to Sch. 4 by reg. 26(b) of S.I. 1991/2741 as from 10.3.92.

<sup>4</sup>Words substituted in para. 11 of Sch. 4 by regs. 24 and 25 of S.I. 1999/2572 as from 5.10.99.

12. ▶<sup>5</sup>◀

▶<sup>6</sup>13. Retirement pension of any category ▶<sup>7</sup>or state pension under Part 1 of the Pensions Act 2014 or bereavement benefit.◀

As regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to the pension, that day and the period of 12 months immediately following it.

<sup>5</sup>Para. 12 of Sch. 4 omitted by reg. 2(3) of S.I. 2008/2424 as from 6.10.08.

<sup>6</sup>Paras. 13 & 14 added to Sch. 4 by reg. 5 of S.I. 2005/455 as from 6.4.06.

<sup>7</sup>Words inserted in para. 13 of Sch. 4 by art. 9(18) of S.I. 2015/1985 as from 6.4.16.

14. Graduated retirement benefit(c).

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 12 months immediately following it.◀

▶<sup>8</sup>15. Shared additional pension.

As regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to the pension, that day and the period of 12 months immediately following it.◀

<sup>8</sup>Para. 15 added to Sch. 4 by reg. 3(2) of S.I. 2005/1551 as from 6.4.06.

▶<sup>9</sup>16. Employment and support allowance.

The day in respect of which the claim is made and the period of three months immediately following it.◀

<sup>9</sup>Para. 16 added to Sch. 4 by reg. 25 of S.I. 2008/1554 as from 27.7.08.

For the purposes of this Schedule—

“actual date of confinement” means the date of the ▶<sup>10</sup>birth◀ of the child or, if the woman is confined of twins or a greater number of children, the date of the ▶<sup>10</sup>birth◀ of the last of them; and

<sup>10</sup>Words substituted in defn. of “actual date of confinement” by reg. 3(3) of S.I. 2010/2760 as from 13.12.10.

(a) Section 60 was repealed from 1st October 1986 by paragraph 5(2) of Schedule 3 to the Social Security Act 1986 (c. 50).

(b) 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) Graduated retirement benefit is payable under section 36 of the National Insurance Act 1965 (c. 51); section 36 is continued in force, subject to modifications, by S.I. 1978/393, regulation 3.

**Schs. 4-6**

<sup>1</sup>Words substituted in defn. "confinement" by reg. 3(4) of S.I. 2010/2760 as from 13.12.10.

"confinement" means labour resulting in the ►<sup>1</sup>birth◄ of a living child, or labour after ►<sup>1</sup>24◄ weeks of pregnancy resulting in the ►<sup>1</sup>birth◄ of a child whether alive or dead.

**SCHEDULE 5**

Regulation 19

**MISCELLANEOUS PROVISIONS WHICH VARY THE PRESCRIBED TIMES UNDER SCHEDULE 4**

[Paragraph 1 (unemployment benefit) of Schedule 5 deleted by reg. 2(23) of S.I. 1996/1460 as from 7.10.96.]

[Whole of Schedule 5 deleted by reg. 7 of S.I. 1996/2306 as from 7.10.96.]

**SCHEDULE 6**

Regulation 22(3)

**DAYS FOR PAYMENT OF LONG TERM BENEFITS**

<sup>2</sup>Para. 1 of Sch. 6 substituted by reg. 27(a) of S.I. 1991/2741 as from 6.4.92.

**►<sup>2</sup>Attendance allowance and disability living allowance**

**1.** Subject to the provisions of regulation 25 (payment of attendance allowance, constant attendance allowance and the care component of a disability living allowance at a daily rate) attendance allowance shall be payable on Mondays and disability living allowance shall be payable on Wednesdays, except that the Secretary of State may in any particular case arrange for either 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.◄

<sup>3</sup>Para. 2 deleted by reg. 2(7) of S.I. 1999/2358 as from 20.9.99.

**2. ►<sup>3</sup>◄****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.

<sup>4</sup>Words substituted in para. 4 by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

**►<sup>4</sup>Carer's allowance◄**

**4.** ►<sup>4</sup>Carer's 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(a) the ►<sup>4</sup>carer's allowance◄ shall be payable on Wednesdays.

**Retirement pension**

<sup>5</sup>Words substituted in reg. 5 by reg. 2(8) of S.I. 2009/3229 as from 6.4.10.

**5.** ►<sup>5</sup>Subject to regulation 22C, retirement pension◄ shall be payable on Mondays, except that—

<sup>6</sup>Sub-para (b) substituted in para. 5 by reg. 9(6) of S.I. 2000/1483 as from 9.4.01.

**►<sup>6</sup>(b) where—**

(i) a woman was entitled to a widow's benefit, or

(ii) a man or a woman was entitled to a bereavement benefit,

immediately before becoming entitled to a retirement pension, that pension shall be payable on ►<sup>7</sup>the day of the week which has become the appropriate day for payment of such benefit to him in accordance with paragraph 6◄;◄

<sup>7</sup>Words in para. 5(b) substituted by reg. 11(a) of S.I. 2002/2441 as from 23.10.02.

(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;

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

Sch. 6

- (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 <sup>1</sup>where payment is by direct credit transfer, or in the circumstances of any particular case, determine<sup>2</sup>;
- (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.

<sup>1</sup>Words in para. 5(d) substituted by reg. 11 of S.I. 2002/2441 as from 23.10.02.

▶<sup>2</sup>Shared additional pension

5A. Shared additional pension shall be payable on Mondays, except that—

- (a) where a retirement pension is payable to the claimant, it shall be payable on the same day as the retirement pension; or
- (b) the Secretary of State may, notwithstanding the provisions of sub-paragraph (a), arrange for a shared additional pension to be payable on such other day of the week as he may, in the circumstances of any particular case, determine.<sup>3</sup>

<sup>2</sup>Para. 5A inserted by reg. 2(9) of S.I. 2005/1551 as from 6.7.05.

6. ▶<sup>3</sup>◀

7. ▶<sup>4</sup>◀

<sup>3</sup>Para. 6 of Sch. 6 deleted by reg. 2(6) of S.I. 2009/604 as from 6.4.09.

<sup>4</sup>Para. 7 of Sch. 6 deleted by reg. 27(b) of S.I. 1991/2741 as from 6.4.92.

## Sch. 7

## SCHEDULE 7

Regulation 26

<sup>1</sup>Heading to Sch. 7 and para. 1 substituted by reg. 2(13) of S.I. 2006/832 as from 10.4.06.

►<sup>1</sup>TIME OF PAYMENT, AND COMMENCEMENT OF ENTITLEMENT  
IN INCOME SUPPORT CASES◄

**Manner of payment**

►<sup>1</sup>1. Except as otherwise provided in these Regulations income support shall be paid in arrears in accordance with the award◄.

**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 ►<sup>2</sup>◄►<sup>3</sup>incapacity benefit or severe disablement allowance and is not a person to whom section 126 of the Social Security Contributions and Benefits Act 1992 (trade disputes) applies◄ unless he was in receipt of income support immediately before the trade dispute began; or
- (c) ►<sup>4</sup>subject to paragraph 2ZA◄ in receipt of widow's benefit ►<sup>5</sup>or ►<sup>6</sup>widowed parent's allowance◄ and is not ►<sup>7</sup>◄ providing or required to provide medical evidence of incapacity for work; or
- (d) to a person to whom ►<sup>8</sup>section 23(A)◄ of the Social Security Act 1986 applies, but only for the period of 15 days mentioned in that subsection.

►<sup>4</sup>2ZA. Paragraph 2(c) shall only apply where a widow's benefit or a ►<sup>6</sup>widowed parent's allowance◄ is paid in advance.◄

►<sup>9</sup>2A.—(1) For the purposes of this paragraph—

- (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(a) or in Scotland local holidays, and
- (b) “office closure” means a period during which an office of the Department of Social Security or associated office ►<sup>10</sup>or any office to which a claim may be made in accordance with regulation 4A(1)◄ is closed in connection with a public holiday.

(2) Where income support is normally paid in arrears and the day on which the benefit is payable by reason of paragraph 3 is affected by office closure it may for that benefit week be paid wholly in advance or partly in advance and partly in arrears and on such a day as the Secretary of State may direct.

(3) Where under this paragraph income support is paid either in advance or partly in advance and partly in arrears it shall for any other purposes be treated as if it was paid in arrears.◄

►<sup>11</sup>3.—(1) Subject to ►<sup>12</sup>sub-paragraph (1A) and to◄ any direction given by the Secretary of State in accordance with sub-paragraph (2), 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.

►<sup>12</sup>(1A) Subject to sub-paragraph (2), where income support is paid to a person on the grounds of incapacity for work, that entitlement commenced on or after 13th April 1995, and no relevant social security benefit is paid to that person, the income support shall be paid fortnightly in arrears.◄

(2) The Secretary of State may direct that income support in respect of any benefit week shall be paid at such intervals and on such days as he may in any particular case or class of case determine.◄

►<sup>13</sup>3A.—(1) Income support for any part-week shall be paid in accordance with an award on such day as the Secretary of State may in any particular case direct.

(2) In this paragraph, “part-week” has the same meaning as it has in Part VII of the Income Support (General) Regulations 1987.◄

(a) 1971 c. 80.

<sup>2</sup>Words in para. 2(b) deleted by reg. 2(24)(a) of S.I. 1996/1460 as from 7.10.96.

<sup>3</sup>Words in para. 2(b) substituted by reg. 14(2) of S.I. 1994/2943 as from 13.4.95.

<sup>4</sup>Words inserted in para. 2(c) & para. 2ZA inserted in Sch. 7 by reg. 2(7) of S.I. 2009/604 as from 6.4.09.

<sup>5</sup>Words inserted in para. 2(c) by reg. 9(7) of S.I. 2000/1483 as from 9.4.01.

<sup>6</sup>Words in para. 2(c) & 2ZA substituted by art. 10(13)(a) & (b) of S.I. 2017/422 as from 6.4.17. see art. 1(2) of this S.I. for when to apply.

<sup>7</sup>Words in para. 2(c) omitted by reg. 7(11) of S.I. 2005/337 as from 18.3.05.

<sup>8</sup>Words in para. 2(d) substituted by reg. 10(1) of S.I. 1988/522 as from 11.4.88.

<sup>9</sup>Para. 2A inserted by reg. 2(6) of S.I. 1989/136 as from 27.2.89.

<sup>10</sup>Words inserted in reg. 2A(1)(b) by para. 2(7) of Sch. 3 to S.I. 1999/3108 as from 29.11.99.

<sup>11</sup>Para. 3 substituted by reg. 8(2) of S.I. 1989/1686 as from 9.10.89.

<sup>12</sup>Words inserted into sub-para. (1), and sub-para. (1A) inserted by reg. 14(3) of S.I. 1994/2943 as from 13.4.95.

<sup>13</sup>Para. 3A added to Sch. 7 by reg. 8(3) of S.I. 1989/1686 as from 9.10.89.

4. ▶<sup>1</sup>In this Schedule◀

“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;

▶<sup>2</sup>“Income Support Regulations” means the Income Support (General) Regulations 1987(a)◀ and

“relevant social security benefit” means ▶<sup>3</sup>▶<sup>4</sup>incapacity benefit◀, severe disablement allowance, retirement pension ▶<sup>5</sup>widowed parent’s allowance◀ or widow’s benefit.

<sup>1</sup>Words in para. 4 substituted by reg. 10(2) of S.I. 1988/522 as from 11.4.88.

<sup>2</sup>Definition inserted into para. 4 by reg. 10(2)(b) of S.I. 1988/522 as from 11.4.88.

<sup>3</sup>Words in para. 4 deleted by reg. 2(24)(b) of S.I. 1996/1460 as from 7.10.96.

<sup>4</sup>Words in defn. of “relevant social security benefit” in para. 4 substituted by reg. 14(4) of S.I. 1994/2943 as from 13.4.95.

<sup>5</sup>Words in defn. of “relevant social security benefit” substituted by art. 10(13)(c) of S.I. 2017/422 as from 6.4.17. see art. 1(2) of this S.I. for when to apply.

<sup>6</sup>Words in sub-para. (2) substituted, sub-para. (2A) inserted and sub-para. (3) substituted by reg. 10(3) of S.I. 1988/522 as from 11.4.88.

<sup>7</sup>Words added to para. 6(3) of Sch. 7 by reg. 17(2) of S.I. 1992/247 as from 9.3.92.

**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) ▶<sup>6</sup>Subject to sub-paragraphs (2A) and (3)◀, 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.

▶<sup>6</sup>(2A) Where income support is awarded under regulation 17(3) for a definite period which is not a benefit week or a multiple of such week entitlement shall commence on the date of claim.◀

▶<sup>6</sup>(3) In a case where regulation 13 applies, entitlement shall commence on the day which is the relevant day for the purposes of that regulation ▶<sup>7</sup>except where income support is paid in advance, when entitlement shall commence on the relevant day, if that day is a day for payment as determined under paragraph 3 but otherwise on the first day for payment after the relevant day. ◀◀

(4) ▶<sup>8</sup>◀

▶<sup>9</sup>(5) If a claim is made by a claimant within 3 days of the date on which he became resident in a resettlement place provided pursuant to section 30 of the Jobseekers Act or at a centre providing facilities for the rehabilitation of alcoholics or drug addicts, and the claimant is so resident for the purposes of that rehabilitation, then the claim shall be treated as having been made on the day the claimant became so resident◀

*There is no longer a para. 6(5A).*

(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.

▶<sup>10</sup>◀

<sup>8</sup>Sub-para. (4) deleted by reg. 10(3)(d) of S.I. 1998/522 as from 11.4.88.

<sup>9</sup>Para. 6(5) substituted for para. 6(5) and (5A) by reg. 2(24)(c) of S.I. 1996/1460 as from 7.10.96.

<sup>10</sup>Para. 7 of Sch. 7 omitted by reg. 5 of S.I. 2000/1596 as from 19.6.00.



## 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 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 is a lone parent within the meaning set out in regulation 2(2) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976(a), 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,▶ an income-based jobseeker's allowance,◀ or payment in accordance with an award of family credit or disability working allowance which was awarded with effect from a date falling before 5th October 1999.◀

Para. 2 (a) of Sch. 8 substituted by reg. 21 of S.I. 1996/1803 as from 7.4.97.

Words inserted in para. 2(b) of Sch. 8 by reg. 2(25) of S.I. 1996/1460 as from 7.10.96.

Words substituted in para. 2(b) of Sch. 8 by reg. 3 of S.I. 1999/2566 as from 5.9.99.

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(b), 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.

(a) S.I. 1976/1267; relevant amending instruments is S.I. 1996/1803.

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

SCHEDULE 9

Regulation 35

DEDUCTIONS FROM BENEFIT AND DIRECT PAYMENT TO THIRD  
PARTIES

[The Housing Benefit (General) Regulations 1987, referred to in paras. 1 and 5 of this Schedule, are reproduced in full in volume 8; and the provisions of those Regulations to which those paragraphs relate are also reproduced as extracts in Vol. 6 (p. 6.4501).]



**Interpretation**

**1.** <sup>1</sup>—(1) In this Schedule—

<sup>2</sup>“the Community Charges Regulations” means the Community Charges (Deductions from Income Support) (No. 2) Regulations 1990;

“the Community Charges (Scotland) Regulations” means the Community Charges (Deductions from Income Support) (Scotland) Regulations 1989;

<sup>3</sup>“contribution-based jobseeker’s allowance” <sup>4</sup>(except where used in sub-paragraph (2)(b)) means any contribution-based jobseeker’s allowance which does not fall within the definition of “specified benefit(a)”; <sup>5</sup>

<sup>6</sup>“contributory employment and support allowance” <sup>7</sup>(except where used in sub-paragraph (3)(b)) means any contributory employment and support allowance which does not fall within the definition of “specified benefit”

“the Council Tax Regulations” means the Council Tax (Deductions from Income Support) Regulations 1993(b);

“family” in the case of a claimant who is not a member of a family means that claimant <sup>8</sup>and for the purposes of state pension credit “a family” comprises of the claimant, his partner, any additional partner to whom section 12(1)(c) of the 2002 Act applies and any person who has not attained the age of 19, is treated as a child for the purposes of section 142 of the Contributions and Benefits Act and lives with the claimant or the claimant’s partner;

<sup>9</sup>“the Fines Regulations” means the Fines (Deductions from Income Support) Regulations 1992;

<sup>10</sup>“5 per cent. of the personal allowance for a single claimant aged not less than 25” means where the percentage is not a multiple of 5 pence the sum obtained by rounding that 5 per cent. to the next higher such multiple;

<sup>11</sup>“hostel” means a building—

(a) in which there is provided for persons generally, or for a class of persons, accommodation, otherwise than in separate and self-contained premises, and either board or facilities of a kind set out in paragraph 4A(1)(d) below adequate to the needs of those persons and—

(b) which is—

(i) managed by or owned by a housing association registered with <sup>12</sup>the Regulator of Social Housing or the Welsh Ministers

<sup>13</sup>(ii) managed or owned by a registered social landlord which registered in accordance with Part 3 of the Housing (Scotland) Act 2001;

(iii) operated other than on a commercial basis and in respect of which funds are provided wholly or in part by a government department or a local authority; or

(iv) managed by a voluntary organisation or charity and provides care, support or supervision with a view to assisting those persons to be rehabilitated or resettled within the community, and

(c) which is not—

(i) a care home;

(ii) an independent hospital; or

(iii) an establishment run by the Abbeyfield Society including all bodies corporate or incorporated which are affiliated to that Society, and

(d) In sub-paragraph (b)(iv) above, “voluntary organisation” shall mean a body the activities of which are carried out otherwise than for profit, but shall not include any public or local authority;

<sup>14</sup>“housing authority” means a local authority, a new town corporation, <sup>15</sup>or the Development Board for Rural Wales;

<sup>16</sup>“the Housing Benefit Regulations” mean the Housing Benefit Regulations 2006;

“the Housing Benefit (State Pension Credit) Regulations” mean the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006;

<sup>17</sup>“housing costs” means any housing costs met under—

(a) Schedule 3 to the Income Support Regulations but—

(i) excludes costs under paragraph 17(1)(f) of that Schedule (tents and tent sites); and

<sup>1</sup>Para. 1 re-designated as para. 1(1) by reg.

2(26)(a) of S.I. 1996/1460 as from 7.10.96.

<sup>2</sup>Defns. of Regulations inserted in para. 1 by reg. 2(2)(a) and (b) of S.I. 1993/495 as from 1.4.93.

<sup>3</sup>Defn. “contribution-based jobseeker’s allowance” inserted by reg. 25(2) of S.I. 1996/2344 as from 7.10.96.

<sup>4</sup>Words inserted in defn. of “contribution-based jobseeker’s allowance” & contributory employment & support allowance” by reg. 8(a) of S.I. 2011/2425 as from 31.10.11.

<sup>5</sup>Defn. “contributory employment & support allowance” inserted in para. 1 by reg. 26(2)(a) (i) of S.I. 2008/1554 as from 27.7.08.

<sup>6</sup>Words in sub-para. 1 inserted by reg.

14(1)(a)(i) in S.I. 2002/3019 as from 6.10.03.

<sup>7</sup>Defn. substituted in para. 1 by reg. 12(a) of S.I. 1991/2284 as from 1.11.91.

<sup>8</sup>Defn. of “hostel” substituted by reg.

13(3) of S.I. 2005/2687 as from 24.10.05.

<sup>9</sup>Words substituted in para. 1(b)(i) “defn. of hostel” by Sch. 1, para. 11 of S.I. 2010/671 as from 1.4.10.

<sup>10</sup>Sub-para. (b)(ii) substituted in defn. of “hostel” & words omitted in defn. of “housing authority” by reg. 3(2)(a) of S.I. 2008/2767 as from 27.11.08.

<sup>11</sup>Defn. of “housing authority” inserted by reg. 12(c) of S.I. 1991/2284 as from 1.11.91.

<sup>12</sup>Defn. of “the Housing Benefit Regulations” substituted by para. 2(3)(a) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>13</sup>Defn. of “housing costs” substituted in para. 1(1) by reg. 2(26)(a)(i) of S.I. 1996/1460 as from 7.10.96.

(a) The definition of “specified benefit” was substituted by S.I. 1996/672 and amended by S.I. 1996/1460.

(b) S.I. 1993/494.

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<sup>1</sup>Words in defn. of “housing costs” in para. 1(1)(a) omitted by reg. 3(2)(a) of S.I. 2005/777 as from 11.4.05.

<sup>2</sup>Words in paras. 1(1)(b) & 1(1)(c) in defn. of “housing costs” omitted by reg. 3(2)(a) of S.I. 2005/777 as from 11.4.05.

<sup>3</sup>Words in the Defn. of “housing costs” inserted by reg. 14(ii) of S.I. 2002/3019 as from 6.10.03.

<sup>4</sup>Word “or” and para. (d) added to defn. of “housing costs”; word “or” omitted after para. (b), word “or” inserted after para. (c) & para. (d) added to defn. of “mortgage payment” by reg. 26(2)(a)(ii) & (iii) of S.I. 2008/1554 as from 27.7.08.

<sup>5</sup>Definition of “income support” omitted by reg. 3(2)(b) of S.I. 2005/777 as from 11.4.05.

<sup>6</sup>Defn. of “integration loan ...” inserted in Sch. 9 by reg. 2(a) of S.I. 2007/1866 as from 31.7.07.

<sup>7</sup>Defn. of “mortgage payment” substituted in para. 1(1) by reg. 2(26)(a)(ii) of S.I. 1996/1460 as from 7.10.96.

<sup>8</sup>Part (c) in the defn. of “mortgage payments” inserted by reg. 14(1)(a)(iii) of S.I. 2002/3019 as from 6.10.03.

- (ii) includes costs under paragraphs 17(1)(a) (ground rent <sup>1</sup>◀) and 17(1)(c) (rentcharges) of that Schedule only when they are paid with costs under paragraph 17(1)(b) of that Schedule (service charges); or
- (b) Schedule 2 to the Jobseeker’s Allowance Regulations but—
  - (i) excludes costs under paragraph 16(1)(f) of that Schedule (tents and tent sites); and
  - (ii) includes costs under paragraphs 16(1)(a) (ground rent <sup>2</sup>▶◀) and 16(1)(c) (rentcharges) of that Schedule but only when they are paid with costs under paragraph 16(1)(b) of that Schedule (service charges);◀
- ▶<sup>3</sup>(c) Schedule II to the State Pension Credit Regulations but—
  - (i) excludes costs under paragraph 13(1)(f) of that Schedule (tents and sites); and
  - (ii) includes costs under paragraphs 13(1)(a) (ground rent <sup>2</sup>▶◀) and 13(1)(c) (rent charges) of that Schedule but only when they are paid with costs under paragraph 13(1)(b) of that Schedule (service charges);◀▶<sup>4</sup>or
- (d) Schedule 6 to the Employment and Support Allowance Regulations but—
  - (i) excludes costs under paragraph 18(1)(f) of that Schedule (tents and tent sites); and
  - (ii) includes costs under paragraph 18(1)(a) (ground rent) and 18(1)(c) (rent charges) of that Schedule but only where they are paid with costs under paragraph 18(1)(b) of that Schedule (service charges);◀

▶<sup>5</sup>◀

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

▶<sup>6</sup>“integration loan which is recoverable by deductions” means an integration loan which is made under the Integration Loans for Refugees and Other Regulations 2007(b) and which is recoverable from the recipient by deductions from a specified benefit under regulation 9 of those Regulations;◀

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

▶<sup>7</sup>“mortgage payment” means the aggregate of any payments which fall to be met under—

- (a) Schedule 3 to the Income Support Regulations in accordance with paragraphs 6 to 10 of that Schedule (housing costs to be met in income support) on a loan which qualifies under paragraph 15 or 16 of that Schedule, but less any amount deducted under paragraph 18 of that Schedule (non-dependant deductions), or
- (b) Schedule 2 to the Jobseeker’s Allowance Regulations in accordance with paragraphs 6 to 9 of that Schedule (housing costs to be met in jobseeker’s allowance) on a loan which qualifies under paragraph 14 or 15 of that Schedule, but less any amount deducted under paragraph 17 of that Schedule (non-dependant deductions), ▶<sup>8</sup>▶<sup>4</sup>◀
- (c) Schedule II to the State Pension Credit Regulations in accordance with paragraph 7 of that Schedule (housing costs to be met in state pension credit) on a loan which qualifies under paragraph 11 or 12 of that Schedule, but less any amount deducted under paragraph 14 of that Schedule (non-dependant deductions),◀▶<sup>4</sup>or
- (d) Schedule 6 to the Employment and Support Allowance Regulations in accordance with paragraphs 8 to 11 of that Schedule (housing costs to be met in employment and support allowance) on a loan which qualifies under paragraph 16 or 17 of that Schedule, but less any amount deducted under paragraph 19 of that Schedule (non-dependant deductions),◀

as the case may be.◀

(a) S.I. 1987/1967.

(b) S.I. 2007/1598, made under section 13 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004.

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“personal allowance for a single claimant aged not less than 25 years” means the amount specified ►<sup>1</sup>in connection with income support and state pension credit◄ in ►<sup>2</sup>paragraph 1(1)(e)◄ of column 2 of Schedule 2 to the Income Support Regulations ►<sup>3</sup>or, ►<sup>1</sup>in connection with jobseekers allowance◄, paragraph 1(1)(e) of Schedule 1 to the Jobseeker’s Allowance Regulations◄; ►<sup>4</sup>or, in connection with employment and support allowance, paragraph 1(1)(b) of Schedule 4 to the Employment and Support Allowance Regulations◄;

►<sup>5</sup>◄

“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

►<sup>6</sup>“specified benefit” means—

- <sup>7</sup>(a) income support or, where in respect of any period it is paid together with any incapacity benefit or severe disablement allowance—
  - (i) in a combined payment;
  - (ii) in part to the beneficiary and in part to another person in accordance with regulation 34; or
  - (iii) by means of two or more instruments of payment,
    - income support and incapacity benefit or severe disablement allowance if the income support alone is insufficient for the purposes of this Schedule;◄

(b) ►<sup>8</sup>◄

- <sup>9</sup>(c) subject to sub-paragraph (2), jobseeker’s allowance;◄ ►<sup>10</sup>◄

- <sup>11</sup>(d) state pension credit or, where in respect of any period it is paid together with any retirement pension►<sup>12</sup>, state pension under Part 1 of the Pensions Act 2014◄, incapacity benefit or severe disablement allowance—

- (i) in a combined payment;
- (ii) in part to the beneficiary and in part to another person in accordance with regulation 34; or
- (iii) by means of two or more instruments of payment,
  - state pension credit and retirement pension►<sup>12</sup>, state pension under Part 1 of the Pensions Act 2014◄, incapacity benefit or severe disablement allowance if the state pension credit alone is insufficient for the purposes of this Schedule;◄

- <sup>13</sup>(e) subject to sub-paragraph (3), employment and support allowance◄

►<sup>14</sup>“water charges” means—

- (a) as respects England and Wales, any water and sewerage charges under Chapter 1 of Part 5 of the Water Industry Act 1991(a);
- (b) as respects Scotland, any water and sewerage charges established by Scottish Water under a charges scheme made under section 29A of the Water Industry (Scotland) Act 2002(b);◄

►<sup>15</sup>“water undertaker” means a company which has been appointed under section 11(1) of the Water Act 1989(c) to be the water or sewerage undertaker for any area in England and Wales ►<sup>14</sup>or in respect of any area in Scotland, Scottish Water(d).◄◄

►<sup>16</sup>(2) For the purposes of the definition of “specified benefit” in sub-paragraph (1), “jobseeker’s allowance” means—

<sup>1</sup>Words in defn. of “personal allowance.” inserted & substituted by reg. 14(1)(a)(iv) of S.I. 2002/3019 as from 6.10.03.

<sup>2</sup>Words substituted in defn. of “personal allowance” by reg. 12(f) of S.I. 1991/2284 as from 1.11.91.

<sup>3</sup>Words inserted in defn. of “personal allowance.” by reg. 2(26)(a)(iv) of S.I. 1996/1460 as from 7.10.96.

<sup>4</sup>Words added in defn. of “personal allowance...” by reg. 26(2)(a)(iv) of S.I. 2008/1554 as from 27.7.08.

<sup>5</sup>Definition of “prisoner” deleted from para. 1 by reg. 2(7)(a)(ii) of S.I. 1989/136 as from 27.2.89.

<sup>6</sup>Defn. of “specified benefit” substituted by reg. 2(7) of S.I. 1996/672 as from 4.4.96.

<sup>7</sup>In defn. of “specified benefit”, para. (a) substituted by reg. 3(2)(c)(i) of S.I. 2005/777 as from 11.4.05.

<sup>8</sup>Para. (b) omitted by reg. 12 of S.I. 2002/2441 as from 23.10.02.

<sup>9</sup>Para. (c) added to defn. of “specified benefit” by reg. 2(26)(a)(iii) of S.I. 1996/1460 as from 7.10.96.

<sup>10</sup>Words deleted in defn. of “specified benefit” by reg. 4(2)(a) of S.I. 2011/674 as from 11.4.11.

<sup>11</sup>Para. (d) substituted in defn. of “specified benefit” by reg. 3(2)(c)(ii) of S.I. 2005/777 as from 11.4.05.

<sup>12</sup>Words inserted in para. (d) of defn. “specified benefit” by art. 19(a) of S.I. 2015/1985 as from 6.4.16.

<sup>13</sup>Para. (e) added to defn. of “specified benefit” by regs. 26(2)(a)(v) of S.I. 2008/1554 as from 27.7.08.

<sup>14</sup>Defn. of “water charges” substituted & words inserted in defn. of “water undertaker” by reg. 15(4)(a) of S.I. 2012/757 as from 1.4.12.

<sup>15</sup>Defn. of “water undertaker” added by reg. 12(g) of S.I. 1991/2284 as from 1.11.91.

<sup>16</sup>Para. 1(2) inserted by reg. 2(26)(b) of S.I. 1996/1460 as from 7.10.96.

(a) 1991 c. 56.

(b) 2002 asp. 3. Section 29A is inserted by the Water Services etc. (Scotland) Act 2005 (asp. 3).

(c) 1989 c. 15

(d) Scottish Water is a body corporate established under section 20 of the Water Industry (Scotland) Act 2002.

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<sup>1</sup>Para. 1(2)(b) substituted by reg. 8(b) of S.I. 2011/2425 as from 31.10.11.

<sup>2</sup>Para. 1(3) added to Sch. 9 by reg. 26(2)(b) of S.I. 2008/1554 as from 27.7.08.

<sup>3</sup>Para. 2(1)(bb) inserted by reg. 13 of S.I. 1991/2284 as from 1.11.91.

<sup>4</sup>Word “and” deleted from para. 2(1)(d) and added to para. 2(1)(e) and para. 2(1)(f) inserted by reg. 2(a) of S.I. 1993/478 as from 1.4.93.

<sup>5</sup>Words in para. 3(1) substituted by reg. 5(2)(a) of S.I. 1992/1026 as from 25.5.92 (or later - see reg. 1(4) *ibid.*).

<sup>6</sup>Words inserted in reg. 3(1) by reg. 14(1)(b) of S.I. 2002/3019 as from 6.10.03.

<sup>7</sup>Words substituted in para. 3(1) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

- (a) income-based jobseeker’s allowance; and
- ▶<sup>1</sup>(b) contribution-based jobseeker’s allowance where—
  - (i) both income-based jobseeker’s allowance and contribution-based jobseeker’s allowance are in payment and the income-based jobseeker’s allowance alone is insufficient for the purposes of this Schedule; or
  - (ii) if there was no entitlement to contribution-based jobseeker’s allowance, there would be entitlement to income-based jobseeker’s allowance at the same rate.◀

▶<sup>2</sup>(3) For the purposes of the definition of “specified benefit” in sub-paragraph (1) “employment and support allowance” means—

- (a) income-related employment and support allowance; and
- (b) contributory employment and support allowance where—
  - (i) both income-related employment and support allowance and contributory employment and support allowance are in payment and the income-related employment and support allowance alone is insufficient for the purposes of this Schedule; or
  - (ii) if there was no entitlement to a contributory employment and support allowance, there would be entitlement to income-related employment and support allowance at the same rate.◀◀

*See Sch. 2, para. 21(a) of S.I. 2010/875 at page 13.9423 for details of modifications to Sch. 9, para. 1(3) in certain situations.*

**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;
- ▶<sup>3</sup>(bb) hostel payments;◀
- (c) service charges for fuel, and rent not falling within head (a) above;
- (d) fuel costs; ▶<sup>4</sup>◀
- (e) water charges ▶<sup>4</sup>; and◀
- ▶<sup>4</sup>(f) payments in place of payments of child support maintenance under section 43(1) of the Child Support Act 1991(a) and regulation 28 of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992(b).◀

(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.

**Housing costs**

**3.—(1)** Subject to ▶<sup>5</sup>sub-paragraphs (4) to (6)◀ 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 ▶<sup>6</sup>or appropriate minimum guarantee◀, the ▶<sup>7</sup>Secretary of

(a) 1991 c. 48.

(b) S.I. 1992/1815.

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State may, if in his 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-paragraphs (2A) and (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 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 Secretary of State may direct that, when the debt is discharged, the amount determined under sub-paragraph (b) shall be the amount deductible.

(2A) Where a payment falls to be made to a third party in accordance with this Schedule, and—

- (a) more than one item of housing costs falls to be taken into account in determining the beneficiary's applicable amount or appropriate minimum guarantee; and
- (b) in accordance with paragraph 4(8) or (11) of paragraph 18 of Schedule 3 to the Income Support Regulations or, as the case may be, paragraph 4(8) or (11) or paragraph 17 of Schedule 2 to the Jobseeker's Allowance Regulations or paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations or paragraph 6(10) or (13) or paragraph 19 of Schedule 6 to the Employment and Support Allowance Regulations an amount is not allowed or a deduction falls to be made from the amount to be met by way of housing costs,

then in calculating the amount deductible, the weekly aggregate ascertained in accordance with sub-paragraph (2) shall be reduced by an amount determined by applying the formula—

$$C \times \frac{B}{A}$$

where—

A = housing costs;

B = this item of housing costs which falls to be paid to a third party under this Schedule;

C = the sum which is not allowed or falls to be deducted in accordance with paragraph 4(8) or 11 or paragraph 18 of Schedule 3 to the Income Support Regulations or, as the case may be, paragraph 4(8) or (11) or paragraph 17 of Schedule 2 to the Jobseeker's Allowance Regulations or paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations or paragraph 6(10) or (13) or paragraph 19 of Schedule 6 to the Employment and Support Allowance Regulations.

(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 or greater than 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 Secretary of State it is in the overriding interests of the family that paragraph (1) should apply.

<sup>1</sup>Words in para. 3(1) substituted by para. 16(a) of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

<sup>2</sup>Words in para. 3(2) substituted & para. 3(2A) inserted by reg. 5(2)(b)-(c) of S.I. 1992/1026 as from 25.5.92 (or later - see reg. 1(4) *ibid.*).

<sup>3</sup>Words in para. 3(2)(a) deleted by reg. 11(2) of S.I. 1988/522 as from 11.4.88.

<sup>4</sup>Words substituted in para. 3(2) & 4(1) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

<sup>5</sup>Words inserted in reg. (2A) by reg. 14(1)(b) of S.I. 2002/3019 as from 6.10.03.

<sup>6</sup>Words inserted in para. 3(2A)(b) by reg. 3 of S.I. 1995/2927 as from 12.12.95.

<sup>7</sup>Words in para. 3(2A) substituted for refs. to para. 10 and 11 by para. 3 of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

<sup>8</sup>Words inserted in para. 3(2A) & in "C" of formula by reg. 2(26)(c) of S.I. 1996/1460 as from 7.10.96.

<sup>9</sup>Words inserted in para. 3(2A)(b) & in "C" of formula by reg. 14(1)(b)(ii) of S.I. 2002/3019 as from 6.10.03.

<sup>10</sup>Words inserted in para. 3(2A)(b) & added to description of "C" by reg. 26(3)(a) & (b) of S.I. 2008/1554 as from 27.7.08.

<sup>11</sup>Words in para. 3(4)(a) of Sch. 9 inserted by reg. 8(3) of S.I. 1992/2595 as from 16.11.92.

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<sup>1</sup>Para. 3(5) and (6) inserted by reg. 5(2)(d) of S.I. 1992/1026 as from 25.5.92 (or later - see reg. 1(4) *ibid.*).

<sup>2</sup>Words inserted in para. 3(5)(a) by reg. 5(4) of S.I. 2002/3197 as from 7.4.03.

<sup>3</sup>Words in para. 4(1) substituted by para. 8(1) of Sch. 1 to S.I. 1992/3147 as from 1.4.93.

<sup>4</sup>Words substituted and inserted in paras. 4(1) & 4(1)(a) & paras. 4(2) & (3) substituted for paras. 4(2), (2A), (3) & (3A) by reg. 2(2)(a)-(e) of S.I. 2003/2325 as from 6.10.03.

<sup>5</sup>Words inserted in paras. 4(1), 4(1)(a) & 4(2)(a) & substituted in para. 4(2), 4(2)(a) & (b) by regs. 26(4)(a)(i)-(ii) & 26(4)(b) & (c) of S.I. 2008/1554 as from 27.7.08.

<sup>6</sup>In para. 4, words in (1)(a) substituted & words omitted from para. 4(2) by reg. 13(3)(b)(i)-(ii) of S.I. 2005/2687 as from 24.10.05.

<sup>7</sup>Words in para. 4(1)(a) substituted by reg. 2(3)(a) of S.I. 2002/398 as from 8.4.02.

<sup>8</sup>Words inserted in para. 4(1)(a) by reg. 2(26)(d)(ii) of S.I. 1996/1460 as from 7.10.96.

<sup>9</sup>Sub-para. 1(b)-(c)(iv) and words in 2(a) substituted into reg. 4 by reg. 5(3)(a) & (b) of S.I. 2013/2536 as from 29.10.13.

<sup>10</sup>Words substituted in para. 4(1) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

<sup>11</sup>Words substituted in para. 4(1) by reg. 2(7)(b)(i)(bb) of S.I. 1989/136 as from 27.2.89.

▶<sup>1</sup>(5) No amount shall be paid pursuant to this paragraph in respect of mortgage interest in any case where a specified part of relevant benefits—

- (a) is required to be paid directly to a qualifying lender under regulation 34A ▶<sup>2</sup>or 34B◀ and Schedule 9A; or
- (b) would have been required to be paid to a body which, or a person who, would otherwise have been a qualifying lender but for an election given under paragraph 9 of Schedule 9A not to be regarded as such.

(6) In sub-paragraph (5), “specified part” and “relevant benefits” have the meanings given to them in paragraph 1 of Schedule 9A.◀

**Miscellaneous accommodation costs**

▶<sup>3</sup>4.—(1) Where an award of income support ▶<sup>4</sup>, jobseeker’s allowance ▶<sup>5</sup>, state pension credit or employment and support allowance◀—

- (a) ▶<sup>4</sup>in the case of income support◀ is made to a person ▶<sup>6</sup>residing in a care home, an Abbeyfield Home or an independent hospital◀ as defined in regulation ▶<sup>7</sup>2(1)◀ of the Income Support Regulations(a) ▶<sup>8</sup>or, ▶<sup>4</sup>in the case of jobseeker’s allowance◀, regulation 1(3) of the Jobseeker’s Allowance Regulations◀ ▶<sup>5</sup>or in the case of employment and support allowance, regulation 2(1) of the Employment and Support Allowance Regulations◀ or

▶<sup>9</sup>(b) in the case of income support, jobseeker’s allowance or employment and support allowance, is made to person who is in accommodation provided under section 3(1) of, and Part 2 of the Schedule to, the Polish Resettlement Act 1947(b) (provision by the Secretary of State of accommodation in camps); or

- (c) in the case of state pension credit, is made to a person residing in—
  - (i) a care home as defined in regulation 1(2) of the State Pension Credit Regulations(c);
  - (ii) an independent hospital as defined in regulation 1(2) of those Regulations;
  - (iii) an establishment run by the Abbeyfield Society (including all bodies corporate or incorporate which are affiliated to the Society); or
  - (iv) accommodation provided under section 3(1) of, and Part 2 of the Schedule to, the Polish Resettlement Act 1947 where the person requires personal care,◀

(▶<sup>4</sup>or to a person who is only temporarily absent from such accommodation◀)◀ the ▶<sup>10</sup>Secretary of State◀ 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 ▶<sup>4</sup>hereafter in this paragraph referred to as “miscellaneous accommodation costs”◀, but, ▶<sup>4</sup>except in a case where accommodation is provided under section 3(1) of, and Part II of the Schedule to, the Polish Resettlement Act 1947◀ or where the accommodation is ▶<sup>11</sup>run by a voluntary organisation either for purposes similar to the purposes for which resettlement units are provided◀ or which provides facilities for alcoholics or drug addicts, only if the ▶<sup>10</sup>Secretary of State◀ is satisfied that the beneficiary has failed to budget for the charges and that it is in the interests of the family.

▶<sup>4</sup>(2) Subject to sub-paragraphs (3) and (3A), the amount of any payment of income support, jobseeker’s allowance ▶<sup>5</sup>, state pension credit or employment and support allowance◀ to a third party determined under sub-paragraph (1) shall be—

- (a) in a case where the beneficiary is not in accommodation ▶<sup>6</sup>◀ as specified in ▶<sup>9</sup>sub-paragraph (1)(c)(ii)◀, an amount equal to the award of income support, jobseeker’s allowance▶<sup>5</sup>, guarantee credit or employment and support allowance◀ payable to the claimant but excluding an amount, if any, which when added to any other income of the beneficiary as determined in accordance with regulation 28 of the Income Support Regulations, regulation 93 of the Jobseeker’s Allowance Regulations ▶<sup>5</sup>, regulation 90 of the Employment and Support Allowance Regulations◀ or regulation 17 of the State Pension Credit Regulations will equal the amount prescribed in respect of personal expenses in sub-paragraph (2A); and
- (b) in any other case, the amount of the award of income support, jobseeker’s allowance ▶<sup>5</sup>, guarantee credit or employment and support allowance◀,

(a) See reg. 2(1).

(b) c. 19.

(c) S.I. 2011/2581.

excluding the amount allowed by sub-paragraph (2A) in respect of personal expenses.

(2A) The amount in respect of personal expenses where a beneficiary is in accommodation referred to in paragraphs 4(1)<sup>1</sup>, (b) or (c)<sup>2</sup> shall be—

- (a) for a single person the sum of <sup>2</sup>£25.00;<sup>4</sup>
- (b) for a couple where both members of the couple are in such accommodation, <sup>2</sup>£25.00<sup>4</sup> for each member;
- (c) for a member of a polygamous marriage where more than one member is in such accommodation, <sup>2</sup>£25.00<sup>4</sup> for each member in such accommodation.

(3) This sub-paragraph shall apply where an award is made of—

- (a) income support calculated in accordance with Part VII of the Income Support Regulations (calculation of income support for part-weeks); or
- (b) jobseeker's allowance calculated in accordance with Part XI of the Jobseeker's Allowance Regulations (part-weeks);<sup>3</sup>
- (c) state pension credit for a period of less than a week calculated under regulation 13A of the State Pension Credit Regulations<sup>(a)</sup> (part-weeks), or a part week payment of state pension credit calculated otherwise<sup>4</sup>; or
- (d) employment and support allowance for a period of less than a week calculated in accordance with Part 14 of the Employment and Support Allowance Regulations (periods of less than a week).<sup>4</sup>

(3A) Where sub-paragraph (3) applies then the amount of any payment to a third party determined under sub-paragraph (1) shall be an amount calculated in accordance with sub-paragraph (2)(a) or (b) as appropriate except that in respect of—

- (a) the income of the beneficiary, if any; and
- (b) the amount allowed for personal expenses by sub-paragraph (2A) above,

the amount shall be the amount used in the calculation under the provisions listed in sub-paragraph (3)(a), (b) or (c), divided by 7 and multiplied by the number of days in the part-week and no payment shall be made to a third party where the Secretary of State certifies it would be impracticable to do so in that particular case.<sup>4</sup>

<sup>5</sup>(4) Where the amount calculated under sub-paragraph <sup>6</sup>(2) or (3A)<sup>4</sup> is such that paragraph 2(2) would operate to prevent any payment under this paragraph being made the amount shall be adjusted so that 10 pence of the award is payable to the beneficiary.<sup>4</sup>

#### <sup>7</sup>Hostel payments

**4A.**—(1) This paragraph applies to a beneficiary if—

- (a) <sup>8</sup>the beneficiary<sup>4</sup> has been awarded specified benefit; and
- <sup>8</sup>(b) either the beneficiary or the beneficiary's partner—
  - (i) is resident in a hostel and has claimed housing benefit in the form of a rent rebate or rent allowance; or
  - (ii) is resident in approved premises under Section 13 of the Offender Management Act 2007; and<sup>4</sup>
- (c) <sup>8</sup><sup>4</sup>
- (d) the charge for <sup>8</sup>the hostel or approved premises, as the case may be,<sup>4</sup> includes a payment, whether direct or indirect, for one or more of the following services—
  - (i) water;
  - (ii) a service charge for fuel;
  - (iii) meals;
  - (iv) laundry;
  - (v) cleaning (other than communal areas).

(2) Subject to sub-paragraph (3) below, where a beneficiary <sup>9</sup><sup>4</sup> has been awarded specified benefit the <sup>10</sup>Secretary of State<sup>4</sup> may determine that an amount of specified benefit shall be paid to the person or body to whom the charges referred to in sub-paragraph (1)(d) above are or would be payable.

<sup>1</sup>Words substituted in para. 4(2A) by reg. 5(3)(c) of S.I. 2013/2536 as from 29.10.13.

<sup>2</sup>Amounts substituted in para. 4(2A) of Sch. 9 by reg. 5 of S.I. 2018/332 as from 9.4.18.

<sup>3</sup>Word "or" omitted after para. 4(3)(b) by reg. 26(4)(c) of S.I. 2008/1554 as from 27.7.08.

<sup>4</sup>Word "or" & para. 4(3)(d) inserted after para. 4(3)(c) by reg. 26(4)(c) of S.I. 2008/1554 as from 27.7.08.

<sup>5</sup>Para. 4(4) added by reg. 2(7)(b)(iii) of S.I. 1989/136 as from 27.2.89.

<sup>6</sup>Words in para. 4(4) substituted by reg. 2(2)(f) of S.I. 2003/2325 as from 6.10.03.

<sup>7</sup>Para. 4A inserted by reg. 15 of S.I. 1991/2284 as from 1.11.91.

<sup>8</sup>Words substituted in paras. 4A(a) & (d), sub-para. (b) substituted & sub-para. (c) omitted by reg. 2(8)(a)-(d) of S.I. 2009/1490 as from 13.7.09.

<sup>9</sup>Words in para. 4A(2) of Sch. 9 deleted by reg. 8(4)(a) of S.I. 1992/2595 as from 16.11.92.

<sup>10</sup>Words substituted in para. 4A(2) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

(a) Regulation 13A was inserted by regulation 23 of S.I. 2002/3019.

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- (3) The amount of any payment to a third party under this paragraph shall be either—
- (a) the aggregate of the amounts determined by a housing authority in accordance with the provision specified in sub-paragraph (4); or
  - (b) if no amount has been determined under paragraph (a) of this sub-paragraph, an amount which the <sup>1</sup>Secretary of State estimates to be the amount which is likely to be so determined.

<sup>1</sup>Words substituted in para. 4A(3) and (5) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

<sup>2</sup>Sub-para. (4) of para. 4A substituted by para. 2(3)(b)(i) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>3</sup>Words in para. 4A(4) substituted by reg. 2(a) of S.I. 2007/2870 as from 7.4.08.

<sup>2</sup>(4) The provisions referred to in sub-paragraph (3)(a) above are <sup>3</sup>regulation 12B(5) of, and paragraphs 1(a)(ii) and (iv), 2, 3, 4 and either 6(1)(b) or 6(2) or 6(3) or 6(4) of Schedule 1 to, the Housing Benefit Regulations or, as the case may be, the Housing Benefit (State Pension Credit) Regulations.

(5) Sub-paragraph (2) above 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 <sup>1</sup>Secretary of State 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.

<sup>4</sup>Para. 4A(6) substituted by reg. 2(26)(e) of S.I. 1996/1460 as from 7.10.96.

<sup>5</sup>Words “or” omitted after para. 4A(6)(a) & para. 4A(6)(c) & words in para. 4A(6) inserted by reg. 26(5)(a) & (b) of S.I. 2008/1554 as from 27.7.08.

<sup>4</sup>(6) Where—

- (a) an award of income support is calculated in accordance with regulation 73(1) of the Income Support Regulations (calculation of income support for part-weeks); <sup>5</sup>
- (b) an award of jobseeker’s allowance is calculated in accordance with regulation 150(1) of the Jobseeker’s Allowance Regulations (amount of a jobseeker’s allowance payable); <sup>5</sup>or
- (c) an award of employment and support allowance is calculated in accordance with regulation 165 of the Employment and Support Allowance Regulations (entitlement of less than a week etc.),

the amount of any payment of income support or, as the case may be, jobseeker’s allowance <sup>5</sup>or employment and support allowance payable to a third party determined under sub-paragraph (2) above shall be an amount calculated in accordance with sub-paragraph (3)(a) or (b) above divided by 7 and multiplied by the number of days in the part-week, and no payment shall be made to a third party under this sub-paragraph where the Secretary of State certifies that it would be impracticable to do so in that particular case.

#### 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; <sup>6</sup>or is resident in approved premises under section 13 of the Offender Management Act 2007(a); and
  - (c) <sup>7</sup>unless sub-paragraph (1A) applies 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 <sup>8</sup>Secretary of State it is in the overriding interests of the family that payments shall be made in accordance with this paragraph.

<sup>7</sup>(1A) This sub-paragraph applies where the rent includes charges for services included under paragraph 4A(1)(d) and the arrears for these services exceed £100.00.

<sup>6</sup>Words in para. 5(1)(b) added and substituted, by reg. 3(7)(a)-(c) of S.I. 2010/510 as from 6.4.10.

<sup>7</sup>Words added to para. 5(1)(c) & sub-para. (1)(1A) inserted by reg. 3(2)(i)-(ii) of S.I. 2008/698 as from 14.4.08.

<sup>8</sup>Words substituted in para. 5(1) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

(a) 2007 c. 21.



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►<sup>1</sup>(1B) For the purposes of sub-paragraphs (1) and (1A), references to “rent” include charges incurred in respect of accommodation in approved premises under section 13 of the Offender Management Act 2007.◄

►<sup>2</sup>(2) For the purposes of sub-paragraph (1) arrears of rent do not include any amount which falls to be deducted under regulation 74 of the Housing Benefit Regulations<sup>(a)</sup> (non-dependant deductions) or, as the case may be, regulation 55 of the Housing Benefit (State Pension Credit) Regulations<sup>(b)</sup> (non-dependant deductions) when assessing a person’s housing benefit.◄

(3) ►<sup>1</sup>The◄ ►<sup>3</sup>Secretary of State◄ 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 ►<sup>4</sup>►<sup>5</sup>regulation 12B(2)◄ of the Housing Benefit Regulations◄ or, as the case may be, the Housing Benefit (State Pension Credit) 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) ►<sup>4</sup>◄

<sup>1</sup>Para. (1B) inserted and word in para. 5(3) substituted by reg. 3(7)(a)-(c) of S.I. 2010/510 as from 6.4.10.

<sup>2</sup>Sch. 9, para. 5(2) substituted by reg. 4(2)(b) of S.I. 2011/674 as from 11.4.11.

<sup>3</sup>Words substituted in para. 5(3) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

<sup>4</sup>In para. 5 words substituted in sub-para. (3)(a) & sub-para (4) omitted by para. 2(3)(c) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>5</sup>Words in para. 5(3)(a) substituted by reg. 2(b) of S.I. 2007/2870 as from 7.4.08.

(a) S.I. 2006/213. Regulation 74 was substituted by regulation 14 of S.I. 2007/2868.

(b) S.I. 2006/214. Regulation 55 was substituted by regulation 14 of S.I. 2007/2869.



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►<sup>1</sup>(5) A determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount calculated in accordance with sub-paragraphs (3) and (6) exceeds ►<sup>2</sup>a sum calculated in accordance with paragraph 8(4).◀◀

(5A) ►<sup>2</sup>◀

(6) In a case to which sub-paragraph (1) ►<sup>3</sup>or (1A)◀ applies the ►<sup>4</sup>Secretary of State◀ 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 ►<sup>5</sup>◀ shall be paid to his landlord ►<sup>6</sup>, or the person or body to whom charges are payable in respect of the residence of the beneficiary or the beneficiary's partner in approved premises under section 13 of the Offender Management Act 2007,◀ until the debt is discharged.

►<sup>7</sup>(7) Immediately after the discharge of any arrears of rent to which sub-paragraph (1) ►<sup>3</sup>or (1A)◀ applies and in respect of which a determination has been made under sub-paragraph (6) ►<sup>4</sup>Secretary of State◀ may, if satisfied that it would be in the interests of the family to do so, direct that an amount, equal to the amount by which the eligible rent is to be reduced by virtue of ►<sup>8</sup>►<sup>9</sup>regulation 12B(2)◀ of the Housing Benefit Regulations or, as the case may be, and the Housing Benefit (State Pension Credit) Regulations◀ in respect of charges for water or service charges for fuel or both, shall be deductible.◀

**Fuel costs**

6.—(1) ►<sup>10</sup>Subject to sub-paragraph (6) and (6A)◀ and paragraph 8, where a beneficiary who has been awarded the specified benefit or his partner is in debt for any ►<sup>11</sup>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 ►<sup>11</sup>the fuel in respect of which the debt arose (“the relevant fuel”)◀, the ►<sup>12</sup>Secretary of State◀, 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:—

►<sup>13</sup>(a) in respect of each debt to which sub-paragraph (1) applies (“the original debt”), a weekly amount equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 for such period as is necessary to discharge the original debt, but the aggregate of the amounts, calculated under this paragraph shall not exceed twice 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 ►<sup>11</sup>the relevant fuel◀, varied, when appropriate, in accordance with sub-paragraph (4)(a)►<sup>11</sup>, plus such weekly amount as is required to meet any payments required to be made under a green deal plan within the meaning of section 1 of the Energy Act 2011 (“the 2011 Act”).◀

(3) ►<sup>13</sup>◀

(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 ►<sup>14</sup>a decision which embodies that determination falls to be superseded◀—

(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 ►<sup>11</sup>the relevant fuel◀ the beneficiary or his partner is in credit or, as the case may be, a further debt has accrued, the ►<sup>12</sup>Secretary of State◀ may determine that the weekly amount calculated under that paragraph shall, for a period of 26 weeks ►<sup>15</sup>or such longer period as may be reasonable in the circumstances of the case◀, 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 ►<sup>12</sup>Secretary of State◀ may determine that the amount deductible in respect of that fuel item shall be the amount determined under sub-paragraph (2)(b).

(5) ►<sup>16</sup>◀

<sup>1</sup>Para. 5(5) substituted by reg. 2(26)(f) of S.I. 1996/1460 as from 7.10.96.

<sup>2</sup>Words in para. 5(5) substituted & para. (5A) omitted by reg. 2(5)(a) of S.I. 2006/2377.

<sup>3</sup>Words added to paras. (6) & (7) by reg. 3(2)(i) - (iv) of S.I. 2008/698 as from 14.4.08.

<sup>4</sup>Words substituted in para. (6) and (7) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

<sup>5</sup>Words deleted from para. 5(6) by reg. 16 of S.I. 1991/2284 as from 1.11.91.

<sup>6</sup>Words in para. (6) of Sch. 9 inserted by reg. 3(7)(d) of S.I. 2010/510 as from 6.4.10.

<sup>7</sup>Para. 5(7) of Sch. 9 added by reg. 8(5) of S.I. 1992/2595 as from 16.11.92. Under reg. 1(2) *ibid.*, “Housing Benefit Regulations” means the Housing Benefit (General) Regulations 1987.

<sup>8</sup>In para. 5 words substituted in sub-para. (2)(a), (3)(a) & 5(7), sub-para (4) omitted by para. 2(3)(c) of Sch. 2 to S.I. 2006/217 as from 6.3.06.

<sup>9</sup>Words in para. (7) substituted by reg. 2(b) of S.I. 2007/2870 as from 7.4.08.

<sup>10</sup>Words in para. 6(1) substituted by reg. 14(1)(d)(i) & (ii) of S.I. 2002/3019 as from 6.10.03.

<sup>11</sup>Words added & substituted in para. 6(1), (2) & (4) of Sch. 9 by reg. 3(a)-(d) of S.I. 2013/443 as from 2.4.13.

<sup>12</sup>Words substituted in para. 6(1) and (4) by para. 12 of Sch. 3 of S.I. 1999/2860 as from 18.10.99.

<sup>13</sup>Para. 6(2)(a) substituted & 6(3) deleted by reg. 17(a) & 17(b) of S.I. 1991/2284 as from 1.11.91.

<sup>14</sup>Words substituted in para. 6(4) by para. 16(b) of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

<sup>15</sup>Words in para. 6(4)(a) of Sch. 9 inserted by reg. 8(6) of S.I. 1992/2595 as from 16.11.92.

<sup>16</sup>Para. 6(5) deleted by reg. 17(b) of S.I. 1991/2284 as from 1.11.91.

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<sup>1</sup>Para. 6(6) substituted by reg. 2(26)(g) of S.I. 1996/1460 as from 7.10.96.

<sup>2</sup>Words substituted in para. 6(6) by reg. 2(5)(b) of S.I. 2006/2377 as from 2.10.06.

<sup>3</sup>Sub-para. (6A) omitted by reg. 2(5)(b) of S.I. 2006/2377 as from 2.10.06.

<sup>4</sup>Para. 6(7) deleted by reg. 17(b) of S.I. 1991/2284 as from 1.11.91.

<sup>5</sup>Para. 6(8) added to Sch. 9 by reg. 3(e) of S.I. 2013/443 as from 2.4.13.

<sup>6</sup>Para. 7 substituted by reg. 18 of S.I. 1991/2284 as from 1.11.91.

<sup>7</sup>Words in para. 7(1) substituted by reg. 7(3) of S.I. 1994/2319 as from 3.10.94.

<sup>8</sup>Words substituted in para. 7(2), (3)(b), (4) and (6) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

<sup>9</sup>Words in para. 7(2) of Sch. 9 substituted by reg. 8(7)(a) of S.I. 1992/2595 as from 16.11.92.

<sup>10</sup>Words substituted in para. 7(2) by para. 16(c) of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

<sup>11</sup>Words in para. 7(4) of Sch. 9 inserted by reg. 8(7)(b) of S.I. 1992/2595 as from 16.11.92.

<sup>12</sup>Para. 7(8) substituted by reg. 2(26)(h) of S.I. 1996/1460 as from 7.10.96.

▶<sup>1</sup>(6) Subject to paragraph 8, a determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount calculated in accordance with sub-paragraph (2) exceeds ▶<sup>2</sup>a sum calculated in accordance with paragraph 8(4).◀

(6A) ▶<sup>3</sup>◀

(7) ▶<sup>4</sup>◀

▶<sup>5</sup>(8) In this paragraph, “fuel item” means—

- (a) any charge for mains gas, including for the reconnection of mains gas; and
- (b) any charge for mains electricity, including any charge for the disconnection or reconnection of mains electricity and including any payments required to be made under a green deal plan within the meaning of section 1 of the 2011 Act.◀

**▶<sup>6</sup>Water charges**

**7.—**(1) This paragraph does not apply where water charges are paid with rent; and in this paragraph “original debt” means the debt to which sub-paragraph (2) applies, ▶<sup>7</sup>including any disconnection or reconnection charges and any other costs (including legal costs) arising out of that debt.◀

(2) Where a beneficiary or his partner is liable, whether directly or indirectly, for water charges and is in debt for those charges, the ▶<sup>8</sup>Secretary of State◀ may determine, subject to paragraph 8, that a weekly amount of the specified benefit shall be paid either to a water undertaker to whom that debt is owed, or to the person or body authorised to collect water charges from that undertaker, ▶<sup>9</sup>but only if ▶<sup>10</sup>the Secretary of State◀ is satisfied that the beneficiary or his partner has failed to budget for those charges, and that it would be in the interests of the family to make the determination.◀

(3) Where water charges are determined by means of a water meter, the weekly amount to be paid under sub-paragraph (2) shall be the aggregate of—

- (a) in respect of the original debt, an amount equal to 5 per cent. of the personal allowance for a single claimant aged not less than 25 years; and
- (b) the amount which the ▶<sup>8</sup>Secretary of State◀ estimates to be the average weekly cost necessary to meet the continuing need for water consumption.

(4) Where the sum estimated in accordance with sub-paragraph (3)(b) proves to be greater or less than the average weekly cost necessary to meet the continuing need for water consumption so that a beneficiary or his partner accrues a credit, or as the case may be a further debt, the ▶<sup>8</sup>Secretary of State◀ may determine that the sum so estimated shall be adjusted for a period of 26 weeks ▶<sup>11</sup>or such longer period as may be reasonable in the circumstances of the case◀ to take account of that credit or further debt.

(5) Where water charges are determined other than by means of a water meter the weekly amount to be paid under sub-paragraph (2) shall be the aggregate of—

- (a) the amount referred to in sub-paragraph (3)(a); and
- (b) an amount equal to the weekly cost necessary to meet the continuing need for water consumption.

(6) When the original debt in respect of water charges is discharged, the ▶<sup>8</sup>Secretary of State◀ may direct that the amount deductible shall be—

- (a) where water charges are determined by means of a water meter, the amount determined under sub-paragraph (3)(b) taking into account any adjustment that may have been made in accordance with sub-paragraph (4); and
- (b) in any other case, the amount determined under sub-paragraph (5)(b).

(7) Where the beneficiary or his partner is in debt to two water undertakers—

- (a) only one weekly amount under sub-paragraph (3)(a) or (5)(a) shall be deducted; and
- (b) a deduction in respect of an original debt for sewerage shall only be made after the whole debt in respect of an original debt for water has been paid; and
- (c) deductions in respect of continuing charges for both water and for sewerage may be made at the same time.

▶<sup>12</sup>(8) Subject to paragraph 8 (maximum amount of payment to third parties), a determination under this paragraph shall not be made without the consent of the beneficiary if the aggregate amount calculated in accordance with sub-paragraphs (3),

(4), (5) and (6) exceeds ►<sup>1</sup>a sum calculated in accordance with paragraph 8(4).◀

(9) ►<sup>1</sup>◀

►<sup>2</sup>**Payments in place of payments of child support maintenance**

7A.—►<sup>3</sup>(1) Subject to sub-paragraph (2), ►<sup>4</sup>the Secretary of State◀ has determined that section 43 of that Act and regulation 28 of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (contribution to maintenance by deduction from benefit) apply in relation to a beneficiary or his partner, the ►<sup>5</sup>Secretary of State◀ shall subject to paragraph 8, if it is satisfied that there is sufficient specified benefit in payment, determine that a weekly amount of that benefit shall be deducted by the Secretary of State for transmission to the person or persons entitled to it.◀

(2) Not more than one deduction shall be made under ►<sup>6</sup>sub-paragraph (1)◀ in any one benefit week as defined in paragraph 4 of Schedule 7.

(3) ►<sup>7</sup>Subject to sub-paragraph (4),◀ the amount of specified benefit to be paid under this paragraph shall be the amount prescribed by regulation 28(2) of the Child Support (Maintenance Assessments and Special Cases) Regulations 1992 for the purposes of section 43(2)(a) of the Child Support Act 1991 ►<sup>7</sup>◀.

►<sup>8</sup>(4) Where, apart from the provisions of this sub-paragraph, the provisions of paragraphs 8(1) and 9 would result in the maximum aggregate amount payable equalling 2 times 5 per cent. of the personal allowance for a single claimant aged not less than 25 years, the amount of specified benefit to be paid under this paragraph shall be one half of the amount specified in sub-paragraph (3).◀

►<sup>9</sup>**Arrears of child support maintenance**

7B.—(1) Where a beneficiary is entitled to contribution-based jobseeker's allowance ►<sup>10</sup>or contributory employment and support allowance◀ and an arrears notice has been served on the beneficiary, the Secretary of State may request in writing that an amount in respect of arrears of child support maintenance be deducted from the beneficiary's jobseeker's allowance ►<sup>10</sup>or contributory employment and support allowance◀.

(2) Where a request is made in accordance with sub-paragraph (1), the ►<sup>5</sup>Secretary of State◀ shall determine that an amount in respect of the arrears of child support maintenance shall be deducted from the beneficiary's jobseeker's allowance ►<sup>10</sup>or contributory employment and support allowance◀ for transmission to the person entitled to it.

(3) Subject to sub-paragraphs (4) and (5), the amount to be deducted under sub-paragraph (2) shall be the weekly amount requested by the Secretary of State, subject to a maximum of one-third of the age-related amount applicable to the beneficiary under section 4(1)(a) of the Jobseekers Act.

►<sup>10</sup>(3A) Subject to sub-paragraphs (4) and (5), the amount to be deducted from the beneficiary's employment and support allowance under sub-paragraph (2) is the weekly amount requested from the beneficiary's employment and support allowance by the Secretary of State, subject to a maximum of one-third of the amount applicable to the beneficiary under regulation 67(2) of the Employment and Support Allowance Regulations (prescribed amounts).◀

(4) No deduction shall be made under this paragraph where a deduction is being made from the beneficiary's contribution-based jobseeker's allowance ►<sup>10</sup>or contributory employment and support allowance◀ under the Community Charges Regulations, the Community Charges (Scotland) Regulations, the Fines Regulations or the Council Tax Regulations.

(5) Where the sum that would otherwise fall to be deducted under this paragraph includes a fraction of a penny, the sum to be deducted shall be rounded down to the next whole penny.

<sup>1</sup>Words inserted in sub-para. (8) and para. (9) omitted by reg. 2(5)(c) of S.I. 2006/2377 as from 2.10.06.

<sup>2</sup>Para. 7A inserted by reg. 2(b) of S.I. 1993/478 as from 1.4.93.

<sup>3</sup>Para. 7A(1) substituted by reg. 3(11) of S.I. 1993/2113 as from 27.9.93.

<sup>4</sup>Words substituted in para. 7A(1) by art. 4 of S.I. 1999/1510 as from 1.6.99.

<sup>5</sup>Words substituted in para. 7A(1) & 7B(2) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

<sup>6</sup>Words in para. 7A(2) substituted by reg. 3(12) of S.I. 1993/2113 as from 27.9.93.

<sup>7</sup>Words inserted and words deleted in para. 7A(3) by reg. 5(2)(a) & (b) respectively of S.I. 1996/481 as from 8.4.96.

<sup>8</sup>Para. 7A(4) added by reg. 5(3) of S.I. 1996/481 as from 8.4.96.

<sup>9</sup>Para. 7B inserted by reg. 25(3) of S.I. 1996/2344 as from 7.10.96.

<sup>10</sup>Words inserted in para. 7B(1), (2) & (4) and para. 7B(3A) inserted by reg. 26(6)(a) & (b) of S.I. 2008/1554 as from 27.7.08.

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(6) In this paragraph—

“arrears notice” means a notice served in accordance with regulation 2(2) of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992(a); and

“child support maintenance” means such periodical payments as are referred to in section 3(6) of the Child Support Act 1991(b).◀

<sup>1</sup>Para. 7C inserted by reg. 2(3)(a) of S.I. 2006/3188 as from 27.12.06.

▶<sup>1</sup>**Eligible loans**

**7C.**—(1) In this paragraph—

“borrower” means a person who has, either solely or jointly, entered into a loan agreement with an eligible lender in respect of an eligible loan and who is, for the time being, entitled to an eligible benefit ▶<sup>2</sup>under this paragraph◀;

“eligible lender” means—

- (a) a body registered under section 1 of the Industrial and Provident Societies Act 1965(c) (societies which may be registered);
- (b) a credit union within the meaning of section 1 of the Credit Unions Act 1979(d) (registration under the Industrial and Provident Societies Act 1965);
- (c) a charitable institution within the meaning of section 58(1) of the Charities Act 1992(e) (interpretation of Part II);
- (d) a body entered on the Scottish Charity Register under section 3 of the Charities and Trustee Investment (Scotland) Act 2005(f) (Scottish Charities Register);

<sup>2</sup>Words inserted in para. 7C by reg. 2(2)(a) of S.I. 2010/870 as from 30.4.2010.

▶<sup>3</sup>(e) a community interest company within the meaning of Part 2 of the Companies (Audit, Investigations and Community Enterprise) Act 2004(g)◀

<sup>3</sup>Sub-para. (e) added to defn. of “eligible lender” by para. 3(b) of S.I. 2008/698 as from 14.4.08.

which, except for a credit union, is licensed under the Consumer Credit Act 1974(h) and which may be determined by the Secretary of State as an appropriate body to which payments on behalf of the borrower may be made in respect of loans made by that body;

“eligible loan” means a loan made by a lender, who is at that time an eligible lender, to a borrower except a loan—

- (a) which is secured by a charge or pledge;
- (b) which is for the purpose of business or self-employment; or
- (c) which was made by means of a credit card;

“loan agreement” means an agreement between the eligible lender and the borrower in respect of an eligible loan.

(2) In this paragraph “eligible benefit” means—

- (a) carer’s allowance;
- (b) the following contributory benefits—
  - (i) incapacity benefit;
  - (ii) retirement pension; ▶<sup>4</sup>◀
- ▶<sup>4</sup>(iii) state pension under Part 1 of the Pensions Act 2014; or◀
- (c) the following benefits—
  - (i) income support;
  - (ii) jobseeker’s allowance;
  - (iii) state pension credit;
  - ▶<sup>5</sup>(iv) employment and support allowance.◀

<sup>4</sup>Word omitted & sub-para. (iii) inserted in para. 7C(2)(b) by art. 9(19) of S.I. 2015/1985 as from 6.4.16.

<sup>5</sup>Para. 7C(2)(c)(iv) added by reg. 26(7) of S.I. 2008/1554 as from 27.7.08.

- 
- (a) S.I. 1992/1816.
  - (b) 1991 c. 48.
  - (c) 1965 c. 12.
  - (d) 1979 c. 34.
  - (e) 1992 c. 41.
  - (f) 2005 asp 10.
  - (g) 2004 c. 27.
  - (h) 1974 c. 39.

(3) Where the conditions set out in sub-paragraph (4) are met the Secretary of State may deduct a sum from an eligible benefit to which the borrower is entitled equal to 5 per cent of the personal allowance for a <sup>1</sup>single claimant<sup>◀</sup> aged not less than 25 and pay that sum to the eligible lender towards discharge of the sum owing under the loan agreement at the date of the application.

<sup>1</sup>Words substituted in para. 7C(3) by para. 3(2)(b) of S.I. 2008/698 as from 14.4.08.

(4) The conditions referred to in sub-paragraph (3) are—

- (a) the borrower has failed to make payments as agreed with the eligible lender for a period of 13 weeks before the date of the application and has not resumed making payments;
- (b) the borrower has given his written permission to the eligible lender to provide to the Secretary of State personal data within the meaning of section 1 of the Data Protection Act 1998(a) (basic interpretive provisions);
- (c) the eligible lender has agreed that no interest or other charge will be added to the amount owed at the date of the application;
- (d) no sum is being deducted under this paragraph;
- (e) no sum is being deducted from the borrower's eligible benefit under section 71(8) of the 1992 Act (overpayments-general) at the date of the application; and
- (f) no sum is being deducted from the borrower's eligible benefit under section 78 of the 1992 Act (recovery of social fund awards) at the date of the application.

(5) The Secretary of State shall notify the borrower and the eligible lender in writing of a decision to make a deduction under this paragraph.

(6) The Secretary of State may make deductions under this paragraph only if the borrower is entitled to an eligible benefit throughout any benefit week.

<sup>2</sup>(6A) The Secretary of State shall not make deductions from a benefit mentioned in sub-paragraph (2) where the borrower is in receipt of any benefit within the meaning of "eligible benefit" in paragraph 11(8) (eligible loans) of Schedule 6 (deductions from benefit and direct payment to third parties) to the 2013 Regulations unless the amount of benefit mentioned in that definition is insufficient to meet the deduction. <sup>◀</sup>

<sup>2</sup>Para. 7C(6A) of Sch. 9 inserted by reg. 2(3) of S.I. 2013/1508 as from 29.7.13.

(7) The Secretary of State shall not make deductions from a benefit mentioned in sub-paragraph (2)(a) where the borrower is in receipt of another eligible benefit unless that benefit is one mentioned in sub-paragraph (2)(b) and is insufficient to enable the deduction to be made or is a benefit mentioned in sub-paragraph (2)(c) and the amount is insufficient to meet the deduction plus 10 pence.

(8) The Secretary of State shall not make deductions from a benefit mentioned in sub-paragraph (2)(b) where the borrower is in receipt of a benefit mentioned in sub-paragraph (2)(c) unless the amount of that benefit is insufficient to meet the deduction plus 10 pence.

(9) The Secretary of State shall cease making deductions from an eligible benefit <sup>▶</sup><sup>3</sup>under this paragraph<sup>◀</sup> if—

- (a) there is no longer sufficient entitlement to an eligible benefit to enable him to make the deduction;
- (b) entitlement to all eligible benefits has ceased;
- (c) a sum is deducted from the borrower's eligible benefit under section 71(8) of the 1992 Act;
- (d) an eligible lender notifies the Secretary of State that he no longer wishes to accept payments by deductions;
- (e) the borrower's liability to make payment in respect of the eligible loan has ceased;
- (f) the lender has ceased to be an eligible lender; or
- (g) the borrower no longer resides in Great Britain.

<sup>3</sup>Words added to Sch. 9, para. 7C(9) by reg. 2(2)(a) of S.I. 2010/870 as from 30.4.10.

(10) The sums deducted from an eligible benefit by the Secretary of State under this paragraph shall be paid to the eligible lender.

(a) 1998 c. 29.

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(11) The Secretary of State shall notify the borrower in writing of the total of sums deducted by him under any application—

- (a) on receipt of a written request for such information from the borrower; or
- (b) on the termination of deductions.

(12) Where a deduction is made under this paragraph from a specified benefit, paragraph 8(a) (maximum amount of payment to third parties) is to have effect as if—

- (a) in sub-paragraph (1) for “and 7A” there were substituted”, 7A and 7C”; and
- (b) in sub-paragraph (2) for “and 7” there were substituted”, 7 and 7C”.◀

<sup>1</sup>Para. 7D inserted in Sch. 9 by reg. 2(b) of S.I. 2007/1866 as from 31.7.07.

►<sup>1</sup>**Integration loans**

**7D.** Subject to paragraphs 2(2), 8 and 9, where a person has an integration loan which is recoverable by deductions, any weekly amount payable shall be equal to 5 per cent. of the personal allowance of a single claimant aged not less than 25 years, including where the loan is a joint loan.◀

<sup>2</sup>Para. 7E inserted in Sch. 9 by reg. 2(2)(b) of S.I. 2010/870 as from 30.4.10.

►<sup>2</sup>**Tax credits overpayment debts and self-assessment debts**

**7E.**—(1) In this paragraph—

“self-assessment debt” means any debt which—

- (a) has arisen from submission of a self-assessment to Her Majesty’s Revenue and Customs under section 9 of the Taxes Management Act 1970 (returns to include self-assessment)(b); and
- (b) is recoverable under Part 6 of that Act;

“tax credits overpayment debt” means any debt which is recoverable under section 29 of the Tax Credits Act 2002 (recovery of overpayments)(c).

(2) Where the conditions set out in sub-paragraph (3) are met, the Secretary of State may deduct from a specified benefit to which the beneficiary is entitled a sum which is up to a maximum of 3 times 5 per cent of the personal allowance for a single claimant aged not less than 25 and pay that sum to Her Majesty’s Revenue and Customs towards discharge of any outstanding tax credits overpayment debt or self-assessment debt owed by the beneficiary to Her Majesty’s Revenue and Customs.

(3) The conditions mentioned in sub-paragraph (2) are—

- (a) that the beneficiary has given written consent to Her Majesty’s Revenue and Customs for deductions to be made from a specified benefit towards discharge of any outstanding tax credits overpayment debt or self-assessment debt owed by the beneficiary to Her Majesty’s Revenue and Customs; and
- (b) no sum is being deducted under this paragraph.

(4) The Secretary of State shall cease making deductions from a specified benefit under this paragraph if—

- (a) there is no longer sufficient entitlement to a specified benefit to enable deductions to be made;
- (b) entitlement to all specified benefits has ceased;
- (c) the beneficiary withdraws consent for the Secretary of State to make deductions from a specified benefit; or
- (d) the beneficiary is no longer liable to repay any tax credits overpayment debt or self-assessment debt.

(a) The relevant amending instruments are S.I. 1990/2208, 1991/2284, 1992/1026, 1993/495, 1996/481, 1997/827, 2005/777 and 2006/2377.

(b) 1970 c. 9. Relevant amendments to section 9 were made by sections 121(4) and (8) and 122(1) of the Finance Act 1996 (c. 8), section 98(2) of the Finance Act 1998 (c. 36), the Income Tax (Earnings and Pensions) Act 2003 (c. 1), Schedule 6, Part 2, paragraphs 123 and 125, the Income Tax (Trading and Other Income) Act 2005 (c. 5), Schedule 1, Part 2, paragraphs 357 and 361 and Schedule 3, the Finance Act 2008 (c. 9), Schedule 12, Part 2, paragraphs 7 and 10 and the Finance Act 2009 (c. 10), Schedule 19, paragraph 9(b).

(c) 2002 c. 21. Section 29 was amended by the Income Tax (Earnings and Pensions) Act 2003, Schedule 6, paragraph 266 and by the Finance Act 2009, Schedule 58, paragraph 8.



(5) The Secretary of State shall notify the beneficiary in writing of the total sums deducted under this paragraph—

- (a) on receipt of a written request for such information from the beneficiary; or
- (b) on the termination of deductions.

(6) Where a deduction is made under this paragraph from a specified benefit, paragraph 8 (maximum amount of payment to third parties) is to have effect as if—

- (a) in sub-paragraph (1) for “and 7A” there were substituted “, 7A and 7E”; and
- (b) in sub-paragraph (2) for “and 7D” there were substituted “, 7D and 7E”. ◀

### Maximum amount of payments to third parties

8.—(1) The maximum aggregate amount payable under ▶<sup>1</sup>paragraphs ◀ 3(2)(a), 5(6), 6(2)(a) ▶<sup>2</sup>, 7(3)(a) ▶<sup>3</sup>, 7(5)(a) and 7A ◀◀▶<sup>4</sup>▶<sup>3</sup>, and ▶<sup>5</sup>regulation 5 of the Council Tax Regulations (a) and regulation 4 of the Fines Regulations (b) ▶<sup>6</sup>, and in respect of an integration loan which is recoverable by deductions ◀◀◀ 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 ▶<sup>7</sup>aggregate ◀ amount payable under ▶<sup>2</sup>paragraphs 3(2)(a), 5, 6 ▶<sup>6</sup>, 7 and 7D ◀◀ shall not without the consent of the beneficiary, exceed ▶<sup>8</sup>a sum calculated in accordance with sub-paragraph 8(4); ◀.

(2A) ▶<sup>8</sup>◀

(3) ▶<sup>4</sup>◀

▶<sup>8</sup>(4) The sum referred to in sub-paragraph (2) is—

- (a) where the claimant or partner does not receive child tax credit, 25 per cent of—
  - (i) in the case of income support, the applicable amount for the family as is awarded under sub-paragraphs (a) to (d) of regulation 17(1) (applicable amounts) or sub-paragraphs (a) to (e) of regulation 18(1) (polygamous marriages) of the Income Support Regulations;
  - (ii) in the case of jobseeker’s allowance, the applicable amount for the family as is awarded under paragraphs (a) to (e) of regulation 83 (applicable amounts) or sub-paragraphs (a) to (f) of regulation 84(1) (polygamous marriages) of the Jobseeker’s Allowance Regulations; ▶<sup>9</sup>◀
  - (iii) in the case of state pension credit, the appropriate minimum guarantee less any housing costs under Schedule 2 to the State Pension Credit Regulations 2002(c) which may be applicable in the particular case; or
  - ▶<sup>10</sup>(iv) in the case of an employment and support allowance, the applicable amount for the family as is awarded under paragraph (1)(a) and (b) of regulation 67 (prescribed amounts) or paragraph (1)(a) to (c) of regulation 68 (polygamous marriages) of the Employment and Support Allowance Regulations; or ◀

*See Sch. 2, para. 21(b)(i) & (ii) of S.I. 2010/1907 at page 13.9424 for details of modifications to Sch. 9, para. 8(4)(a)(iv) in certain situations.*

- (b) where the claimant or his partner receives child tax credit, 25 per cent of the sum of—
  - (i) the amount mentioned in ▶<sup>11</sup>sub-paragraphs (a)(i) to (iv) ◀, which applies to the claimant;

<sup>1</sup>Words substituted in para. 8(1) by reg. 6 of S.I. 1996/481 as from 8.4.96.

<sup>2</sup>Reference & words substituted in paras. 8(1) & (2) by reg. 19(a) & (b) of S.I. 1991/2284 as from 1.11.91.

<sup>3</sup>Words substituted in para. 8(1) by reg. 2(3)(a) & (b) of S.I. 1993/495 as from 1.4.93.

<sup>4</sup>Words in para. 8(1) & para. 8(3) omitted by reg. 7(2)(a) & (b) of S.I. 1997/827 as from 7.4.97.

<sup>5</sup>Words in para. 8(1) substituted by reg. 3(4) of S.I. 2005/777 as from 11.4.05.

<sup>6</sup>Words inserted and substituted in paras. 8(1) & (2) by reg. 2(c)(i) & (ii) of S.I. 2007/1866 as from 31.7.07.

<sup>7</sup>Words inserted into para. 8(2) by reg. 16(3)(a) of S.I. 1990/2208 as from 5.12.90.

<sup>8</sup>Words substituted in para. 8(2), sub-para. (2A) omitted and para. (4) inserted by reg. 2(5)(d)(i)-(iii) of S.I. 2006/2377 as from 2.10.06.

<sup>9</sup>Word “or” omitted after para. 8(4)(a)(ii) by reg. 26(8)(a) of S.I. 2008/1554 as from 27.7.08.

<sup>10</sup>Sch. 9, para. 8(4)(a) (iv) substituted by Sch. 4, para. 67 of S.I. 2010/1907 as from 1.10.10.

<sup>11</sup>Words substituted in para. 8(4)(b)(i) by reg. 15(4)(b) of S.I. 2012/757 as from 1.4.12.

(a) Regulation 5 was substituted by S.I. 1999/3178 (c. 81) and amended by S.I. 2002/3019.

(b) Regulation 4 was substituted by S.I. 1999/3178 and amended by S.I. 2002/3019 and 2004/2889.

(c) S.I. 2002/1792.

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- (ii) the amount of child benefit awarded to him or his partner by the Board under Part 2 of the Tax Credits Act 2002(a); and
- (iii) the amount of child tax credit awarded to him or his partner by the Board under section 8 of that Act(b).◀

**Priority as between certain debts**

<sup>1</sup>Para. 9(1A) and (1B) substituted for reg. 9(1) by reg. 2(4) of S.I. 1993/495 as from 1.4.93.

<sup>2</sup>Words substituted in para. 9(1A)(a) & para. 9(1B)(i) added by reg. 2(2)(c)(i) & (ii) of S.I. 2010/870 as from 30.4.10.

<sup>3</sup>Words in para. 9(1A)(b) substituted by reg. 3(5)(a) of S.I. 2005/777 as from 11.4.05.

<sup>4</sup>Words substituted in para. 9(1A)(b) & para. 9(1B)(ga) inserted by reg. 2(d)(i) & (ii) of S.I. 2007/1866 as from 31.7.07.

<sup>5</sup>Para. 9(1B)(za) omitted by para. 7(2)(d) of S.I. 1997/827 as from 7.4.97.

<sup>6</sup>Words added to para. 9(1B)(a) by reg. 3(2)(b) of S.I. 2008/2767 as from 17.11.08.

<sup>7</sup>Words in para. 9(1B)(e) and (f) substituted by reg. 3(5)(b) and (c) of S.I. 2005/777 as from 11.4.05.

<sup>8</sup>Para. 9(1B)(h) inserted by reg. 2(3)(b) of S.I. 2006/3188 as from 27.12.06.

<sup>9</sup>Words substituted in para. 9(3) by para. 12(a) of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

<sup>10</sup>Para. 9(4) deleted by reg. 20 of S.I. 1991/2284 as from 1.11.91.

▶<sup>19</sup>—(1A) Where in any one week—

- (a) more than one of paragraphs 3 to ▶<sup>2</sup>7A, 7C or 7E◀ are applicable to the beneficiary; or
- (b) one or more of those paragraphs are applicable to the beneficiary and one or more of the following provisions, namely, ▶<sup>3</sup>regulation 3 of the Community Charges Regulations(c), regulation 3 of the Community Charges (Scotland) Regulations(d), regulation 4 of the Fines Regulations ▶<sup>4</sup>, regulation 5 of the Council Tax Regulations and regulation 9 of the Integration Loans for Refugees and Other Regulations 2007◀◀ also applies; and
- (c) 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 made;

the order of priorities specified in sub-paragraph (1B) shall apply.

(1B) The order of priorities which shall apply in sub-paragraph (1A) is—

- (za) ▶<sup>5</sup>◀
  - (a) any liability mentioned in paragraph 3 (housing costs) ▶<sup>6</sup>, paragraph 4 (miscellaneous accommodation costs) or paragraph 4A (hostel payments)◀;
  - (b) any liability mentioned in paragraph 5 (service charges for fuel and rent not falling within paragraph 2(1)(a));
  - (c) any liability mentioned in paragraph 6 (fuel costs);
  - (d) any liability mentioned in paragraph 7 (water charges);
  - (e) any liability mentioned in ▶<sup>7</sup>regulation 3 of the Community Charges Regulations (deductions from income support etc.), regulation 3 of the Community Charges (Scotland) Regulations (deductions from income support etc.) or any liability mentioned in regulation 5 of the Council Tax Regulations (deductions from debtor's income support etc.)◀;
  - (f) any liability mentioned in ▶<sup>7</sup>regulation 4 of the Fines Regulations (deductions from offender's income support etc.)◀;
  - (g) any liability mentioned in paragraph 7A (payments in place of payments of child support maintenance) ▶<sup>4</sup>;
  - (ga) any liability to repay an integration loan which is recoverable by deductions ▶<sup>8</sup>;
  - (h) any liability mentioned in para. 7C (liability in respect of loans) ▶<sup>2</sup>;
  - (i) any liability mentioned in paragraph 7E (tax credits overpayment debts and self-assessment debts)◀◀◀◀.

(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 ▶<sup>9</sup>Secretary of State◀ 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) ▶<sup>10</sup>◀

(a) 2002 c. 21.

(b) Section 8 was amended as it applies to polygamous units by S.I. 2003/742.

(c) Regulation 3 was substituted by S.I. 1999/3178 and amended by S.I. 2002/3019.

(d) Regulation 3 was substituted by S.I. 1999/3178 and amended by S.I. 2002/3019.

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►<sup>1</sup>SCHEDULE 9A ►<sup>2</sup>Regulation 34A & 34B◀DEDUCTIONS OF MORTGAGE INTEREST FROM BENEFIT AND  
PAYMENT TO QUALIFYING LENDERS

## Interpretation

## 1. In this Schedule—

►<sup>3</sup>◀

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

►<sup>4</sup>“relevant benefits” means

►<sup>5</sup>(a) income support, or income support and any incapacity benefit or severe disablement allowance where—

- (i) either benefit is paid with income support in a combined payment in respect of any period; and
- (ii) the income support alone is insufficient for the purpose of this Schedule;◀

(b) ►<sup>6</sup>◀

►<sup>7</sup>(c) income-based jobseeker’s allowance; ►<sup>8</sup>◀ ►<sup>9</sup>◀

►<sup>10</sup>(ca) contribution-based jobseeker’s allowance where—

- (i) both income-based jobseeker’s allowance and contribution-based jobseeker’s allowance are in payment, and
- (ii) the income-based jobseeker’s allowance alone is insufficient for the purposes of this Schedule;◀

►<sup>11</sup>(d) state pension credit, or state pension credit and any retirement pension, incapacity benefit or severe disablement allowance where—

- (i) one of those benefits is paid with state pension credit in a combined payment in respect of any period; and
- (ii) the state pension credit alone is insufficient for the purpose of this Schedule;◀ ►<sup>9</sup>and

(e) income-related employment and support allowance;◀

►<sup>10</sup>(f) contributory employment and support allowance where—

- (i) both income-related employment and support allowance and contributory employment and support allowance are in payment, and
- (ii) the income-related employment and support allowance alone is insufficient for the purposes of this Schedule;◀

“specified part” shall be construed in accordance with paragraph 3.

►<sup>12</sup>Specified circumstances ►<sup>2</sup>for the purposes of regulation 34A ◀

## 2. The circumstances referred to in regulation 34A are that—

►<sup>13</sup>(a) ►<sup>14</sup>the amount to be met under—

- (i) Schedule 3 to the Income Support Regulations; or
- (ii) Schedule 2 to the Jobseeker’s Allowance Regulations; or
- (iii) Schedule II to be the State Pension Credit Regulations,◀ ►<sup>9</sup>or
- (iv) Schedule 6 to the Employment and Support Allowance Regulations,◀

by reference to the standard rate ►<sup>15</sup>◀ and, in the case of income support, to any amount payable in accordance with paragraph 7 of Schedule 3 to the Income Support Regulations,◀ and

- (b) the relevant benefits to which a relevant beneficiary is entitled are payable in respect of a period of 7 days or multiple of such a period.◀

<sup>1</sup>Sch. 9A inserted by reg. 6 of S.I. 1992/1026 as from 29.4.92 (paras. 1 & 9) and as from 25.5.92 (all other paras.).

<sup>2</sup>Words in heading for Sch. 9A substituted, words in heading for para. 2 inserted by reg. 5(5)(a), (b) of S.I. 2002/3197 as from 7.4.03.

<sup>3</sup>Words in para. 1 deleted by reg. 7(3)(a) of S.I. 1997/827 as from 7.4.97.

<sup>4</sup>Defn. of “relevant benefits” substituted by reg. 2(8)(a) of S.I. 1996/672 as from 4.4.96.

<sup>5</sup>Para. 1(a) in defn. of “relevant benefits” substituted by reg. 4(a) of S.I. 2005/777 as from 11.4.05.

<sup>6</sup>Para. 1(b) in defn. of “relevant benefits” omitted by reg. 13 of S.I. 2002/2441 as from 23.10.02.

<sup>7</sup>Para (c) inserted, in defn. of “relevant benefits” by reg. 2(27) (a)(ii) of S.I. 1996/1460 as from 7.10.96.

<sup>8</sup>Words deleted in defn. of “relevant benefits”, para. (c), by reg. 4(3) of S.I. 2011/674 as from 11.4.11.

<sup>9</sup>Word “and” omitted after para. 1(c), para. (e) added & sub-para. (iii) added to para. 2(a) by reg. 27(2) & (3) of S.I. 2008/1554 as from 27.7.08.

<sup>10</sup>Paras. (ca) & (f) inserted into para. 1 of Sch. 9A by reg. 3(a)-(b) of S.I. 2010/2429 as from 1.11.10.

<sup>11</sup>Para. 1(d) in defn. of “relevant benefits” substituted by reg. 4(b) of S.I. 2005/777 as from 11.4.05.

<sup>12</sup>Para. 2 substituted by para. 6 of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

<sup>13</sup>Para. 2(a) substituted by reg. 2(27)(b) of S.I. 1996/1460 as from 7.10.96.

<sup>14</sup>Words in para. 2(a) inserted by reg. 14(2)(b) of S.I. 2002/3019 as from 6.10.03.

<sup>15</sup>Words in para. 2(a) omitted by reg. 3(a) of S.I. 2004/2825 as from 28.11.05.

(a) S.I. 1987/1967.

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<sup>1</sup>Para. 2A inserted by reg. 5(5) (c) of S.I. 2002/3197 as from 7.4.03.

**►<sup>1</sup>Specified circumstances for the purposes of regulation 34B**

**2A.**—(1) The circumstances referred to in regulation 34B are that—

- (a) the relevant beneficiary is entitled to a savings credit as construed in accordance with sections 1 and 3 of the 2002 Act and not to a guarantee credit; and
- (b) sub-paragraphs (a) and (b) of paragraph 2 apply.

(2) The further circumstances referred to in that regulation are that—

- (a) the relevant beneficiary has requested the Secretary of State in writing to make such payments to the qualifying lender; or
- (b) the Secretary of State has determined that it would be in the relevant beneficiary's interests, or in the interests of his family, to make such payments to the qualifying lender.

(3) In making the determination referred to in sub-paragraph (2)(b), the Secretary of State shall have regard to whether or not the relevant beneficiary is in arrears with his payments to the qualifying lender.

(4) For the purposes of sub-paragraph (2)(b), "a family" comprises the relevant beneficiary, his partner, any additional partner to whom section 12(1)(c) of the 2002 Act applies and any person who has not attained the age of ►<sup>2</sup>20◄, is treated as a child for the purposes of section 142 of the Contributions and Benefits Act and lives with the relevant beneficiary or the relevant beneficiary's partner.◄

<sup>2</sup>Words in para. 2A(4) substituted by reg. 2(2) of S.I. 2007/3183 as from 17.12.07.

**Specified part of relevant benefit**

**3.**—►<sup>3</sup>(1) Subject to the following provisions of this paragraph, the part of any relevant benefits which, as determined by the ►<sup>4</sup>Secretary of State in accordance with regulation 34A, shall be paid◄ by ►<sup>5</sup>him◄ directly to the qualifying lender ("the specified part") is ►<sup>6</sup>, in the case of income support, ◄ a sum equal to the amount of mortgage interest to be met in accordance with paragraph 6 and 8 to 10 of Schedule 3 to the Income Support Regulations (housing costs) together with an amount (if any) determined under paragraph 7 of that Schedule (transitional protection) ►<sup>6</sup>or, in the case of jobseeker's allowance, a sum equal to the amount of mortgage interest to be met in accordance with paragraphs 6 to 9 of Schedule 2 to the Jobseeker's Allowance Regulations ►<sup>7</sup>or, in the case of employment and support allowance, a sum equal to the amount of mortgage interest to be met in accordance with paragraphs 8 to 11 of Schedule 6 to the Employment and Support Allowance Regulations◄◄.

<sup>3</sup>Sub-para. (1) of para. 3 substituted for sub-para. (1) and (2) by para. 7(a) of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

<sup>4</sup>Words substituted in para. 3(1) by para. 17 of Sch. 6 to S.I. 1999/3178 as from 29.11.99.

<sup>5</sup>Words substituted in para. 3(1) by para. 13 of Sch. 3 to S.I. 1999/2860 as from 18.10.99.

<sup>6</sup>Words inserted in para. 3(1) by reg. 2(27)(c) of S.I. 1996/1460 as from 7.10.96.

<sup>7</sup>Words inserted in para. 3(1), substituted in para. 3(3) & inserted in para. 3(3)(b) by reg. 27(4)(a) & 27(4)(b)(i) & (ii) of S.I. 2008/1554 as from 27.7.08.

<sup>8</sup>Sub-para. (1A) inserted by reg. 14(2)(c) of S.I. 2002/3019 as from 6.10.03.

<sup>9</sup>Words inserted in sub-para. (1A) by reg. 5(d)(i) of S.I. 2002/3197 as from 6.10.03.

<sup>10</sup>Words inserted in para. 3(3) & (3)(b) & words substituted in (3)(b) by reg. 2(27) (c) of S.I. 1996/1460 as from 7.10.96.

►<sup>8</sup>(1A) Subject to the following provisions of this paragraph, the part of state pension credit which, as determined by the Secretary of State in accordance with regulation 34A, shall be paid directly to the qualifying lender, ►<sup>9</sup>or, in accordance with regulation 34B, may be paid directly to the qualifying lender◄ is a sum equal to the amount of mortgage interest to be met under paragraph 7 of Schedule II to the State Pension Credit Regulations.◄

*(There is no longer a sub-paragraph (2) in para. 3.)*

(3) Where, in determining a relevant beneficiary's applicable amount for the purposes of income support ►<sup>7</sup>income-based jobseeker's allowance or income-related employment and support allowance◄ ►<sup>10</sup>or a relevant beneficiary's appropriate minimum guarantee in state pension credit◄—

- (a) a sum in respect of housing costs is brought into account in addition to a sum in respect of mortgage interest; and

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- (b) in accordance with <sup>1</sup>paragraph 4(8) or (11) or paragraph 18 of Schedule 3 to the Income Support Regulations <sup>2</sup>or, as the case may be <sup>3</sup>paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations or <sup>4</sup>paragraph 4(8) or (11) or paragraph 17 of Schedule 2 to the Jobseeker’s Allowance Regulations <sup>5</sup>or paragraph 6(10) or (13) or 19 of Schedule 6 to the Employment and Support Allowance Regulations <sup>6</sup>an amount is not allowed or a deduction falls to be made from the amount to be met under <sup>7</sup>either of those Schedules

<sup>1</sup>Words substituted in para. 3(3) by para. 7(b) of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

<sup>2</sup>Words inserted in para. 3(3)(b) & words substituted in (3)(b) by reg. 2(27) (c) of S.I. 1996/1460 as from 7.10.96.

<sup>3</sup>Words in sub-para. (3) inserted & substituted by reg. 14(2)(c)(ii) (aa) & (bb) of S.I. 2002/3019 as from 6.10.03.

<sup>4</sup>Words inserted in para. 3(3)(b) by reg. 27(4)(b)(ii) of S.I. 2008/1554 as from 27.7.08.

<sup>5</sup>Words added in defns. of “A”, “B” and “C” in para. 3(3) by reg. 2(27)(c)(ii) of S.I. 1996/1460 as from 7.10.96.

<sup>6</sup>Words inserted in the value of A, B, & C & sub-para. (4) by reg. 14(2)(c)(ii) - (iv) of S.I. 2002/3019 as from 6.10.03.

<sup>7</sup>Word added in defns. of “A”, “B” and “C” in para. 3(3) by reg. 27(4)(b)(iii)-(v) of S.I. 2008/1554 as from 27.7.08.

then the specified part referred to in <sup>1</sup>sub-paragraph (1) or (1A) of this paragraph is the mortgage interest minus a sum calculated by applying the formula—

$$\frac{C \times B}{A}$$

where—

- A = housing costs within the meaning of paragraph 1 of Schedule 3 to the Income Support Regulations <sup>5</sup>or, as the case may be, <sup>6</sup>paragraph 1 of Schedule II to the State Pension Credit Regulations or <sup>7</sup>paragraph 1 of Schedule 2 to the Jobseeker’s Allowance Regulations <sup>7</sup>or paragraph 1 of Schedule 6 to the Employment and Support Allowance Regulations
- B = the housing costs to be met in accordance with paragraphs 6 and 8 to 10 of Schedule 3 to the Income Support Regulations (housing costs) together with an amount (if any) determined under paragraph 7 of that Schedule (transitional protection) <sup>5</sup>or, as the case may be <sup>6</sup>paragraph 7 of Schedule II to the State Pension Credit Regulations or <sup>7</sup>paragraphs 6 to 9 of Schedule 2 to the Jobseeker’s Allowance Regulations <sup>7</sup>or paragraph 8 to 11 of Schedule 6 to the Employment and Support Allowance Regulations; and
- C = the sum which is not allowed or falls to be deducted in accordance with paragraph 18 of Schedule 3 to the Income Support Regulations <sup>5</sup>or, as the case may be <sup>6</sup>paragraph 5(9) or (12) or paragraph 14 of Schedule II to the State Pension Credit Regulations or <sup>7</sup>paragraph 4(8) or (11) or paragraph 17 of Schedule 2 to the Jobseeker’s Allowance Regulations <sup>7</sup>or paragraph 19 of Schedule 6 to the Employment and Support Allowance Regulations.

(4) <sup>6</sup>Except where the relevant benefit is state pension credit, <sup>6</sup>where a payment is being made under a policy of insurance taken out by a beneficiary to insure against the risk of his being unable to maintain repayments of mortgage interest to a qualifying lender, then the amount of any relevant benefits payable to that lender shall be reduced by a sum equivalent to so much of the amount payable under the policy of insurance as represents payments in respect of mortgage interest.

**<sup>8</sup>Application of payment where it exceeds borrower’s actual mortgage interest**

<sup>8</sup>Para. 4A inserted by reg. 2(3) of S.I. 2010/796 as from 8.4.10.

**4A.**—(1) Subject to sub-paragraph (2), insofar as the sum paid to a qualifying lender under this Schedule in respect of a particular loan exceeds the borrower’s liability in respect of the mortgage interest payable on that loan the excess shall be applied by that lender in the following order of priority—

- (a) first, towards the discharge of any liability for arrears of mortgage interest in respect of that loan;
- (b) second, towards the discharge of any liability to repay the principal sum, or any other sum payable by the borrower to that lender, in respect of that loan.

(2) Where the borrower is liable to pay mortgage interest to the same qualifying lender in respect of two or more different loans, insofar as the sum paid to that lender under this Schedule in respect of one of those loans (“loan A”) exceeds the borrower’s liability in respect of the mortgage interest payable on that loan the excess shall be applied by that lender in the following order of priority—

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- (a) first, towards the discharge of any liability for arrears of mortgage interest payable in respect of loan A;
- (b) second, towards the discharge of any liability to repay the principal sum, or any other sum payable by the borrower to that lender, in respect of loan A or (insofar as that liability is not already discharged by the application of any other sum paid to the qualifying lender under this Schedule) any of the other loans.◀

<sup>1</sup>Sub-paras. (5) and (6) omitted by reg. 7(3)(b) of S.I. 1997/827 as from 7.4.97.

<sup>2</sup>Para. 3(7) deleted by para. 7(d) of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

<sup>3</sup>Para. 3(9) added by reg. 11(3) of S.I. 2001/488 as from 9.4.01.

<sup>4</sup>Sub-para. (10) inserted by reg. 14(2)(iv) of S.I. 2002/3019 as from 6.10.03.

<sup>5</sup>Words in sub-para. (10) inserted, & sub-para. (11) inserted by reg. 5(5)(d)(ii)-(iii) of S.I. 2002/3197 as from 6.10.03.

(5)–(6) ▶<sup>1</sup>◀

(7) ▶<sup>2</sup>◀

(8) Where the amount of any relevant benefits to which a relevant beneficiary is entitled is less than the sum which would, but for this sub-paragraph, have been the specified part, then the specified part shall be the amount of any relevant benefits to which the relevant beneficiary is entitled less 10p.

▶<sup>3</sup>(9) In the case of a person to whom regulation 6(5) of the Income Support Regulations applies, no part of any relevant benefit shall be paid directly by the Secretary of State to a qualifying lender.◀

▶<sup>4</sup>(10) In sub-paragraph (1), the relevant benefits do not include in the case of state pension credit ▶<sup>5</sup>but not in a case to which sub-paragraph 11 applies,◀ so much of any additional amount which is applicable in the claimant's case under Schedule II to the State Pension Credit Regulations (housing costs) in respect of a period before the decision awarding state pension credit was made.◀

▶<sup>5</sup>(11) This sub-paragraph applies where the last day on which either the claimant or his partner were entitled to income support or to an income-based jobseeker's allowance was no more than twelve weeks before—

- (a) except where paragraph (b) applies, the first day of entitlement to state pension credit; or
- (b) where the claim for state pension credit was treated as made on a day earlier than the day on which it was actually made (“the actual date”), the day which would have been the first day of entitlement to state pension credit had the claim been treated as made on the actual date.◀

**Direct payment: more than one loan**

4.—(1) This paragraph applies where the borrower is liable to pay mortgage interest in respect of two or more different loans.

▶<sup>6</sup>(2) Subject to the following provisions of this paragraph, the Secretary of State shall pay to the qualifying lender or, if there is more than one qualifying lender, to each qualifying lender—

- (a) a sum equal to the mortgage interest determined by reference to paragraph 12 of Schedule 3 to the Income Support Regulations (standard rate) ▶<sup>7</sup>or, as the case may be ▶<sup>8</sup>paragraph 9 of Schedule II to the State Pension Credit Regulations or◀, paragraph 11 of Schedule 2 to the Jobseeker's Allowance Regulations ▶<sup>9</sup>or paragraph 13 of Schedule 6 to the Employment and Support Allowance Regulations◀◀ (standard rate) in respect of each loan made by that lender, ▶<sup>10</sup>◀
- (b) any amount payable in accordance with paragraph 7 of Schedule 3 to the Income Support Regulations (transitional protection) attributable to the particular loan; ▶<sup>10</sup>◀
- (c) any additional amount attributable to a particular loan which may, under paragraph 3(5), have been taken into account in calculating the specified part.◀

(3) If, by virtue of deductions made under either paragraph 3(2) or 3(3), the specified part is less than the amount payable by the borrower in respect of mortgage interest, then the sum payable under sub-paragraph (2)(a) shall be minus such proportion of the sum subtracted under those sub-paragraphs as is attributable to the particular loan.

<sup>6</sup>Para. 4(2) substituted by para. 8 of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

<sup>7</sup>Words inserted in para. 4(2)(a) by reg. 2(27)(d) of S.I. 1996/1460 as from 7.10.96.

<sup>8</sup>Words in sub-para. (2)(a) inserted by reg. 14(2)(d) of S.I. 2002/3019 as from 6.10.03.

<sup>9</sup>Words inserted in para. 4(2)(a) by reg. 27(5) of S.I. 2008/1554 as from 27.7.08.

<sup>10</sup>Words deleted in para. 4(2)(a) and (b) by reg. 7(3)(c) of S.I. 1997/827 as from 7.4.97.

(4) Paragraph 3(4) shall apply to reduce the amount payable to a qualifying lender mentioned in sub-paragraph (2) above as it applies to reduce the amount of any relevant benefits payable to a qualifying lender under paragraph 3.

(5) Where the specified part is the part referred to in paragraph 3(8), the Secretary of State shall pay the specified part directly to the qualifying lenders to whom mortgage interest is payable by the borrower in order of the priority of mortgages or (in Scotland) in accordance with the preference in ranking of heritable securities.

#### 5. ▶<sup>1</sup>◀

### Time and manner of payments

6. Payments to qualifying lenders under regulation 34A ▶<sup>2</sup>or 34B◀ and this Schedule shall be made in arrears at intervals of 4 weeks.

### Fees payable by qualifying lenders

7. For the purposes of defraying the expenses of the Secretary of State in administering the making of payments under regulation 34A ▶<sup>2</sup>or 34B◀ and this Schedule a qualifying lender shall pay to the Secretary of State a fee of ▶<sup>3</sup>£0.39◀ in respect of each payment made under regulation 34A and this Schedule.

### Qualifying lenders

8. The following bodies and persons shall be qualifying lenders—

- ▶<sup>4</sup>(a) Regulator of Social Housing;◀
- ▶<sup>5</sup>(aa) the Homes and Communities Agency;◀
  - (b) Housing for Wales;
- ▶<sup>6</sup>(c) Communities Scotland;◀
  - (d) the Development Board for Rural Wales; and
  - (e) any body incorporated under the Companies Act 1985(a) whose main objects include the making of loans secured by a mortgage of or a charge over land or (in Scotland) by a heritable security.

### Election not to be regarded as a qualifying lender

9.—(1) A body which, or a person who, would otherwise be a qualifying lender may elect not to be regarded as such for the purposes of these Regulations by giving notice of election under this paragraph to the Secretary of State in accordance with sub-paragraphs (2) and (3).

▶<sup>7</sup>(2) Subject to sub-paragraph (4), the information referred to in heads (a), (b), (c) and (d) of sub-paragraph (1) shall be provided at the request of the Secretary of State when a claim for—

- (a) income support or income-based jobseeker's allowance is made and a sum in respect of mortgage interest is to be brought into account in determining the applicable amount; or
- (b) state pension credit is made and a sum in respect of housing costs is applicable in the claimant's case in accordance with regulation 6(6)(c) of the State Pension Credit Regulations.◀

(3) A body which, or a person who, becomes a qualifying lender during a financial year and who wishes to elect not to be regarded as such for the purposes of these Regulations shall give notice of election in writing within a period of six weeks from the date on which the person or body became a qualifying lender.

<sup>1</sup>Para. 5 deleted by reg. 2(8)(b) of S.I. 1996/672 as from 4.4.96.

<sup>2</sup>Insertions in para. 6 & 7 by reg. 5(5)(e) of S.I. 2002/3197 as from 6.10.03.

<sup>3</sup>Amount in para. 7 substituted by reg. 2 of S.I. 2017/270 as from 1.4.17.

<sup>4</sup>Para. 8(a) substituted by Sch. 1, para. 12 of S.I. 2010/671 as from 1.4.10.

<sup>5</sup>Sch. 9A, para. 8(aa) inserted by Sch. 1, para. 4 of S.I. 2008/2831 as from 1.12.08.

<sup>6</sup>Para. 8(c) of Sch. 9A substituted by reg. 6 of S.I. 2006/2378 as from 1.10.06.

<sup>7</sup>Para. 9(2) substituted & words in 10(3)(a) inserted by reg. 14(2)(e) of S.I. 2002/3019 as from 6.10.03.

(a) 1985 c. 6.

## Sch. 9A

<sup>1</sup>Words in para. 9(4) substituted by reg. 5(5)(f) of S.I. 2002/3197 as from 6.10.03.

(4) ►<sup>1</sup>Neither regulation 34A nor 34B shall◀ apply to a body which, or a person who, becomes a qualifying lender during a financial year for a period of six weeks from the date on which the person or body became a qualifying lender unless, either before the start of that period or at any time during that period, the person or body notifies the Secretary of State in writing that this sub-paragraph should not apply.

(5) A body which, or a person who, has made an election under this paragraph may revoke that election by giving notice in writing to the Secretary of State before 1st February in any financial year and the revocation shall take effect on the 1st April following the giving of the notice.

(6) Where a notice under this paragraph is sent by post it shall be treated as having been given on the day it was posted.

**Provision of information**

**10.**—(1) A qualifying lender shall provide the Secretary of State with information relating to—

- (a) the mortgage interest payable by a borrower;
- (b) the amount of the loan;
- (c) the purpose for which the loan is made;
- (d) the amount outstanding on the loan on which the mortgage interest is payable;
- (e) any change in the amount of interest payable by the borrower;

at the times specified in sub-paragraphs (2) and (3).

<sup>2</sup>Para. 10(2) substituted by reg. 14(2)(e) of S.I. 2002/3019 as from 7.4.03.

(2) ►<sup>2</sup>(2) Subject to sub-paragraph (4), the information referred to in heads (a), (b), (c) and (d) of sub-paragraph (1) shall be provided at the request of the Secretary of State when a claim for—

- (a) income support►<sup>3</sup>, employment and support allowance◀ or income-based jobseeker's allowance is made and a sum in respect of mortgage interest is to be brought into account in determining the applicable amount; or
- (b) state pension credit is made and a sum in respect of housing costs is applicable in the claimant's case in accordance with regulation 6(6)(c) of the State Pension Credit Regulations.◀

<sup>3</sup>Words inserted in para. 10(2)(a), 10(3)(a) & 10(4) by reg. 27(6) of S.I. 2008/1554 as from 27.7.08.

(3) ►<sup>4</sup>Subject to sub-paragraph (4),◀ the information referred to in heads (d) and (e) of sub-paragraph(1) shall be provided at the request of the Secretary of State—

- (a) when a claim for income support►<sup>3</sup>, employment and support allowance◀►<sup>5</sup>, state pension credit◀►<sup>6</sup>or income-based jobseeker's allowance◀ ceases to be paid to a relevant beneficiary; and
- (b) once every 12 months notwithstanding that, in relation to head (d), the information may already have been provided during the period of 12 months preceding the date of the Secretary of State's request.

<sup>4</sup>Words inserted in para. 10(3) by reg. 5(2)(a) of S.I. 1997/2305 as from 22.10.97.

<sup>5</sup>Para. 9(2) substituted & words in 10(3)(a) inserted by reg. 14(2)(e) of S.I. 2002/3019 as from 6.10.03.

<sup>6</sup>Words inserted in para. 10(3)(a) by reg. 2(27)(e)(i) and (ii) of S.I. 1996/1460 as from 7.10.96.

<sup>7</sup>Para 10(4) inserted by reg. 5(2)(b) of S.I. 1997/2305 as from 22.10.97.

►<sup>7</sup>(4) Where a claimant or his partner is a person to whom either paragraph 1A of Schedule 3 to the Income Support (General) Regulations 1987 (housing costs)►<sup>3</sup>, paragraph 3 of Schedule 6 to the Employment and Support Allowance Regulations (housing costs)◀ or paragraph 1A of Schedule 2 to the Jobseeker's Allowance Regulations 1996 (housing costs) refers, the information to which sub-paragraphs (2) and (3)(b) refer shall be provided at the request of the Secretary of State on the anniversary of the date on which the housing costs in respect of mortgage interest were first brought into account in determining the applicable amount of the person concerned.◀



**Recovery of sums wrongly paid**

**11.**—(1) Where sums have been paid to a qualifying lender under regulation 34A ►<sup>1</sup>or 34B◀ which ought not to have been paid for one or both of the reasons mentioned in sub-paragraph (2) of this paragraph, the qualifying lender shall, at the request of the Secretary of State, repay the sum overpaid.

<sup>1</sup>Words inserted in para. 11(1) & (2)(a)(i) by reg. 5(4) of S.I. 2002/3197 as from 7.4.03.

(2) The reasons referred to in sub-paragraph (1) of this paragraph are—

(a) that—

(i) the rate at which the borrower pays mortgage interest has been reduced ►<sup>2</sup>or the rate ►<sup>3</sup>determined in accordance with◀ paragraph 12 of Schedule 3 to the Income Support Regulations ►<sup>4</sup>or, as the case may be, ►<sup>5</sup>or paragraph 13 of Schedule 6 to the Employment and Support Allowance Regulations◀ paragraph 11 of Schedule 2 to the Jobseeker's Allowance Regulations◀►<sup>1</sup>or paragraph 9 of Schedule II to the State Pension Credit Regulations◀ (standard rate) has been reduced◀ or the amount outstanding on the loan has reduced, and

<sup>2</sup>Words inserted in para. 11(2)(a)(i) by para. 9 of Sch. 2 to S.I. 1995/1613 as from 2.10.95.

<sup>3</sup>Words substituted in para. 11(2)(a)(i) by reg. 3(b) of S.I. 2004/2825 as from 28.11.04.

<sup>4</sup>Words inserted in para. 11(2)(a)(i) by reg. 2(27)(f) of S.I. 1996/1460 as from 7.10.96.

<sup>5</sup>Words inserted in para. 11(2)(a)(i) by reg. 27(7) of S.I. 2008/1554 as from 27.7.08.

(ii) as a result of this reduction the applicable amount of the relevant beneficiary has also been reduced, but

(iii) no corresponding reduction was made to the specified part; or

(b) subject to paragraph (3), that the relevant beneficiary has ceased to be entitled to any relevant benefits.

(3) A qualifying lender shall only repay sums which ought not to have been paid for the reason mentioned in sub-paragraph (2)(b) of this paragraph if the Secretary of State has requested that lender to repay the sums within a period of 4 weeks starting with the last day on which the relevant beneficiary was entitled to any relevant benefits.◀

## ►<sup>6</sup>SCHEDULE 9B

Regulation 35

### DEDUCTIONS FROM BENEFIT IN RESPECT OF CHILD SUPPORT MAINTENANCE AND PAYMENT TO PERSONS WITH CARE

<sup>6</sup>Sch. 9B inserted by reg. 2(b) of S.I. 2001/18 as from 31.1.01.

**Interpretation**

**1.** In this Schedule—

“the Act” means the Child Support Act 1991(a),

“beneficiary” means a person who has been awarded a specified benefit and includes each member of a joint-claim couple awarded joint-claim jobseeker's allowance,

►<sup>7</sup>“fee” means any collection fee under Part 3 of the Child Support Fees Regulations 2014 which is payable by the non-resident parent,◀

“maintenance” ►<sup>8</sup>, except in paragraph 3,◀ means maintenance which a non-resident parent is liable to pay under the Act at a flat rate of child support maintenance (or would be so liable but for a variation having been agreed to), and that rate applies (or would have applied) because he falls within paragraph 4(1)(b) or (c) or 4(2) of Schedule 1 to the Act, and includes such maintenance payable at a transitional rate in accordance with Regulations made under section 29(3)(a) of the Child Support, Pensions and Social Security Act 2000(b),

<sup>7</sup>Defn. of “fee” inserted by reg. 14(2) of S.I. 2014/612 as from 12.8.14.

<sup>8</sup>Words inserted in defn. of “maintenance” by reg. 3(a) of S.I. 2002/1950 as from the date specified in reg. 1(2) of that S.I. on page 1.5723.

“specified benefit” means either a benefit, pension or allowance mentioned in section 5(2) of the Social Security Administration Act 1992(c) and which is prescribed for the purpose of paragraph 4(1)(b) or (c) of Schedule 1 to the Act or a war disablement pension or a war widow's pension within the meaning of section 150(2) of the Social Security Contributions and Benefits Act 1992(d).

(a) 1991 c. 48 Sch. 1 Part I was substituted by the Child Support, Pensions and Social Security Act 2000 (c. 19) s. 1(3) and Part I of Sch. 1.

(b) 2000 c. 19.

(c) 1992 c. 5; s. 5(2) was amended by the Jobseekers Act 1995 (c. 18), Sch. 2 para. 39.

(d) 1992 c. 4.

*See Sch. 2, para. 62 of S.I. 2010/1907 at page 13.9424 for details of modifications to Sch. 9B, para. 1 in certain situations.*

### Deductions

**2.—(1)** Subject to paragraphs 5 and 6, the Secretary of State may deduct from a specified benefit awarded to a beneficiary, an amount equal to the amount of maintenance ►<sup>1</sup>and any fee◀ which is payable by the beneficiary (or in the case of income support ►<sup>2</sup>, state pension credit◀►<sup>3</sup>, income-based jobseeker's allowance or income-related employment and support allowance◀, payable either by the beneficiary or his partner) and pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the liability to pay maintenance ►<sup>1</sup>, and retain any amount deducted in discharge of any liability to pay a fee◀.

<sup>1</sup>Words inserted & amount substituted in paras. 2(1), (2), 3(1) & 4 of Sch. 9B by reg. 14(3), (4) & (5) of S.I. 2014/612 as from 12.8.14.

<sup>2</sup>Words inserted in paras. 2(1), 3(1) & 5(1) by reg. 14(3) of S.I. 2002/3019 as from 6.10.03.

<sup>3</sup>Words substituted in paras. 2(1), 3(1), 5(1) by reg. 28(2)-(4) of S.I. 2008/1554 as from 27.7.08.

<sup>4</sup>Para. 2(2A) inserted in Sch. 9B by reg. 2(4) of S.I. 2013/1508 as from 29.7.13.

(2) A deduction ►<sup>1</sup>for maintenance and fees◀ may only be made from one of the specified benefits in any one week.

►<sup>4</sup>(2A) Where paragraph 5 (flat rate maintenance) of Schedule 7 (deductions from benefit in respect of child support maintenance and payment to persons with care) to the 2013 Regulations applies, the Secretary of State shall not make deductions under paragraphs 5 and 6 of this Schedule, unless the amount of "specified benefit" within the meaning of paragraph 1 of Schedule 7 to the 2013 Regulations is insufficient to meet the deduction under paragraph 5 of that Schedule.◀

(3) No deduction may be made unless the amount of the relevant specified benefit is not less than the total of the amounts to be deducted under this Schedule plus 10 pence.

### Arrears

**3.—(1)** Except where income support ►<sup>2</sup>, state pension credit◀►<sup>3</sup>, income-based jobseeker's allowance or income-related employment and support allowance◀ is payable to the beneficiary or his partner, the Secretary of State may deduct the sum of ►<sup>1</sup>£1.20◀ per week from a specified benefit which the beneficiary has been awarded and, subject to sub-paragraph (2), pay the amount deducted to or among the person or persons with care in discharge (in whole or in part) of the beneficiary's liability to pay arrears of maintenance ►<sup>1</sup>, and retain any amount deducted in discharge of any liability to pay a fee◀.

(2) Deductions made under sub-paragraph (1) may be retained by the Secretary of State in the circumstances set out in regulation 8 of the Child Support (Arrears, Interest and Adjustment of Maintenance Assessments) Regulations 1992(a).

►<sup>5</sup>(3) In sub-paragraph (1) "maintenance" means child support maintenance as defined by section 3(6) of the Act—

- (a) before the amendment of the definition of such maintenance by section 1(2)(a) of the Child Support, Pensions and Social Security Act 2000(b);
- (b) after the amendment of the definition; or
- (c) both before and after the amendment of the definition,

and includes maintenance payable at a transitional rate in accordance with regulations made under section 29(3)(a) of the Act.◀

### Apportionment

**4.** Where maintenance is payable to more than one person with care, the amount deducted ►<sup>1</sup>in respect of maintenance◀ shall be apportioned between the persons with care in accordance with paragraphs 6, 7 and 8 of Schedule 1 to the Act.

<sup>4</sup>Sub-para. (3) inserted into para. 3 by reg. 3(b) of S.I. 2002/1950 as from the date specified in reg. 1(2) of that S.I. on page 1.5723.

(a) S.I. 1992/1816. Reg. 8 was substituted by reg. 2 of S.I. 1995/3261 and amended by the Child Support Collection and Enforcement and Miscellaneous Amendments Regs. 2000.

(b) S.I. 2009 c. 19; section 21 was brought into force by S.I. 2000/2994 (c. 94) for the purpose of exercising powers to make regulations and Acts.

**Flat rate maintenance**

5.—(1) This sub-paragraph applies where the beneficiary and his partner are each liable to pay maintenance at a flat rate in accordance with paragraph 4(2) of Schedule 1 to the Act and either of them has been awarded income support<sup>1</sup>, state pension credit<sup>2</sup>, income-based jobseeker's allowance or income-related employment and support allowance<sup>3</sup>.

(2) Where sub-paragraph (1) applies, an amount not exceeding £5<sup>3</sup> and any fee<sup>4</sup> may be deducted in respect of the sum of both partners' liability to pay maintenance<sup>3</sup> and any fee<sup>4</sup>, in the proportions described in regulation 4(3) of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000<sup>(a)</sup> and shall be paid in discharge (in whole or in part) of the respective liabilities to pay maintenance<sup>3</sup> or retained in discharge of any liability to pay a fee<sup>4</sup>.

<sup>1</sup>Words inserted in para. 5(1) by reg. 14(3) of S.I. 2002/3019 as from 6.10.03.

<sup>2</sup>Words substituted in para. 5(1) by reg. 28(4) of S.I. 2008/1554 as from 27.7.08.

<sup>3</sup>Words inserted in paras. 5(2) & 6(2) of Sch. 9B by reg. 14(6) & (7) of S.I. 2014/612 as from 12.8.14.

**Flat rate maintenance (polygamous marriage)**

6.—(1) This sub-paragraph applies where two or more members of a polygamous marriage are each liable to pay maintenance at a flat rate in accordance with paragraph 4(2) of Schedule 1 to the Act and any member of the polygamous marriage has been awarded income support<sup>4</sup>, state pension credit<sup>5</sup>, income-based jobseeker's allowance or income-related employment and support allowance<sup>6</sup>.

(2) Where sub-paragraph (1) applies, an amount not exceeding £5<sup>3</sup> and any fee<sup>4</sup> may be deducted in respect of the sum of all the members' liability to pay maintenance<sup>3</sup> and any fee<sup>4</sup>, in the proportions described in regulation 4(3) of the Child Support (Maintenance Calculations and Special Cases) Regulations 2000 and shall be paid in discharge (in whole or in part) of the respective liabilities to pay maintenance<sup>3</sup> or retained in discharge of any liability to pay a fee<sup>4</sup>.

<sup>4</sup>Words in Sch. 9B, para. 6(1) inserted by reg. 14(3) of S.I. 2002/3019 as from 6.10.03.

<sup>5</sup>Words substituted in Sch. 9B, para. 6(1) by reg. 28(5) of S.I. 2008/1554 as from 27.7.08.

(3) In this paragraph "polygamous marriage" means any marriage during the subsistence of which a party to it is married to more than one person and the ceremony of marriage took place under the law of a country which permits polygamy.

**Notice**

7. When the Secretary of State commences making deductions, he shall notify the beneficiary in writing of the amount and frequency of the deduction and the benefit from which the deduction is made and shall give further such notice when there is a change to any of the particulars specified in the notice.

**General**

8. A deduction made in accordance with this Schedule is a deduction by way of recovery for the purposes of regulation 40(3) of the Income Support (General) Regulations 1987<sup>(b)</sup><sup>6</sup>, regulation 104(3) of the Employment and Support Allowance Regulations<sup>7</sup> and regulation 103(3) of the Jobseeker's Allowance Regulations 1996<sup>(c)</sup>.

<sup>6</sup>Words inserted in Sch. 9B, para. 8 by reg. 28(6) of S.I. 2008/1554 as from 27.7.08.

(a) S.I. 2000/18.

(b) S.I. 1987/1967; relevant amending instruments are S.I. 1988/2022, 1998/563.

(c) S.I. 1996/207, to which there are amendments not relevant to these Regs.

**Sch. 9ZC**

<sup>1</sup>Sch. 9ZC inserted by the Sch. to S.I. 2003/2800 as from 1.12.03.

►<sup>1</sup>SCHEDULE 9ZC Regulations 4ZC and 32ZA

## ELECTRONIC COMMUNICATION

## PART 1

## INTRODUCTION

**Interpretation**

**1.** In this Schedule “official computer system” means a computer system maintained by or on behalf of the Secretary of State for the sending, receiving, processing or storing of any claim, certificate, notice, information or evidence.

## PART 2

## ELECTRONIC COMMUNICATION - GENERAL PROVISIONS

**Conditions for the use of electronic communication**

<sup>2</sup>Sub-para. (1) substituted by reg. 2(5)(a) of S.I. 2016/544 as from 15.6.16.

►<sup>2</sup>**2.**—(1) The Secretary of State may use an electronic communication in connection with claims for, and awards of—

- (a) carer’s allowance;
- (b) attendance allowance;
- <sup>3</sup>(ba) bereavement support payment;◄
- (c) disability living allowance;
- (d) graduated retirement benefit;
- (e) a jobseeker’s allowance;
- (f) a retirement pension;
- (g) state pension under Part 1 of the Pensions Act 2014;
- (h) shared additional pension;
- (i) industrial injuries benefit;
- (j) an employment and support allowance;

<sup>3</sup>Para. 2(1)(ba) inserted by art. 10(14) of S.I. 2017/422 as from 6.4.17, see art. 1(2) of this S.I. for when to apply.

(1A) The Secretary of State may use an electronic communication in connection with awards of—

- (a) incapacity benefit;
- (b) income support;
- (c) state pension credit.◄

(2) A person other than the Secretary of State may use an electronic communication in connection with the matters referred to in ►<sup>1</sup>sub-paragraph (1) and (1A)◄ if the conditions specified in sub-paragraphs (3) to (6) are satisfied.

<sup>1</sup>Words substituted in Sch. 9ZC para. 2(2) by reg. 2(5)(b) of S.I. 2016/544 as from 15.6.16.

(3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Secretary of State.

(4) The second condition is that the person uses an approved method of—

- (a) authenticating the identity of the sender of the communication;
- (b) electronic communication;
- (c) authenticating any claim, certificate, notice, information or evidence delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (7), submitting to the Secretary of State any claim, certificate, notice, information or evidence.

(5) The third condition is that any claim, certificate, notice, information or evidence sent by means of an electronic communication is in a form approved for the purpose of this Schedule.

(6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Secretary of State.

(7) Where the person uses any method other than the method approved by the Secretary of State, of submitting any claim, certificate, notice, information or evidence, that claim, certificate, notice, information or evidence shall be treated as not having been submitted.

(8) In this paragraph “approved” means approved by means of a direction given by the Secretary of State for the purposes of this Schedule.

#### **Use of intermediaries**

3. The Secretary of State may use intermediaries in connection with—

- (a) the delivery of any claim, certificate, notice, information or evidence by means of an electronic communication; and
- (b) the authentication or security of anything transmitted by such means,

and may require other persons to use intermediaries in connection with those matters.

### **PART 3**

#### **ELECTRONIC COMMUNICATION - EVIDENTIAL PROVISIONS**

##### **Effect of delivering information by means of electronic communication**

4.—(1) Any claim, certificate, notice, information or evidence which is delivered by means of an electronic communication shall be treated as having been delivered, in the manner or form required by any provision of these Regulations, on the day the conditions imposed—

- (a) by this Schedule; and
- (b) by or under an applicable enactment,

are satisfied.

(2) The Secretary of State may, by a direction, determine that any claim, certificate, notice, information or evidence is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

(3) Information shall not be taken to have been delivered to an official computer system by means of an electronic communication unless it is accepted by the system to which it is delivered.

**Proof of identify of sender or recipient of information**

5. If it is necessary to prove, for the purpose of any legal proceedings, the identity of—

- (a) the sender of any claim, certificate, notice, information or evidence delivered by means of an electronic communication to an official computer system; or
- (b) the recipient of any such claim, certificate, notice, information or evidence delivered by means of an electronic communication from an official computer system,

the sender or recipient, as the case may be, shall be presumed to be the person whose name is recorded as such on that official computer system.

**Proof of delivery of information**

6.—(1) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any claim, certificate, notice, information or evidence this shall be presumed to have been the case where—

- (a) any such claim, certificate, notice, information or evidence has been delivered to the Secretary of State, if the delivery of that claim, certificate, notice, information or evidence has been recorded on an official computer system; or
- (b) any such certificate, notice, information or evidence has been delivered by the Secretary of State, if the delivery of that certificate, notice, information or evidence has been recorded on an official computer system.

(2) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such claim, certificate, notice, information or evidence, this shall be presumed not to be the case, if that claim, certificate, notice, information or evidence delivered to the Secretary of State has not been recorded on an official computer system.

(3) If it is necessary to prove, for the purpose of any legal proceedings, when any such claim, certificate, notice, information or evidence sent by means of an electronic communication has been received, the time and date of receipt shall be presumed to be that recorded on an official computer system.

**Proof of content of information**

7. If it is necessary to prove, for the purpose of any legal proceedings, the content of any claim, certificate, notice, information or evidence sent by means of an electronic communication, the content shall be presumed to be that recorded on an official computer system.◀

<sup>1</sup>Sch. 9C inserted by reg. 5 of S.I. 2002/1789 as from 28.10.02.

ELECTRONIC COMMUNICATION

PART 1

INTRODUCTION

**Interpretation**

1. In this Schedule “official computer system” means a computer system maintained by or on behalf of the Secretary of State for the—

- (a) sending or receiving of any claim, certificate, notice, information or evidence; or
- (b) processing or storing of any claim, certificate, notice, information or evidence.

## PART 2

Sch. 9C

### ELECTRONIC COMMUNICATION - GENERAL PROVISIONS

#### Conditions for the use of electronic communication

2.—(1) The Secretary of State may use an electronic communication in connection with claims for, and awards of, child benefit and elections under regulation 6A of the Social Security (Guardian's Allowances) Regulations 1975 (prescribed manner of making an election).

(2) A person other than the Secretary of State may use an electronic communication in connection with the matters referred to in sub-paragraph (1) if the conditions specified in sub-paragraphs (3) to (6) are satisfied.

(3) The first condition is that the person is for the time being permitted to use an electronic communication by an authorisation given by means of a direction of the Secretary of State.

(4) The second condition is that the person uses an approved method of—

- (a) authenticating the identity of the sender of the communication;
- (b) electronic communication;
- (c) authenticating any claim, certificate, notice, information or evidence delivered by means of an electronic communication; and
- (d) subject to sub-paragraph (7), submitting to the Secretary of State any claim, certificate, notice, information or evidence.

(5) The third condition is that any claim, certificate, notice, information or evidence sent by means of an electronic communication is in a form approved for the purpose of this Schedule.

(6) The fourth condition is that the person maintains such records in written or electronic form as may be specified in a direction given by the Secretary of State.

(7) Where the person uses any method other than the method approved by the Secretary of State, of submitting any claim, certificate, notice, information or evidence, that claim, certificate, notice, information or evidence shall be treated as not having been submitted.

(8) In this paragraph “approved” means approved by means of a direction given by the Secretary of State for the purposes of this Schedule.

#### Use of intermediaries

3. The Secretary of State may use intermediaries in connection with—

- (a) the delivery of any claim, certificate, notice, information or evidence by means of an electronic communication; and
  - (b) the authentication or security of anything transmitted by such means,
- and may require other persons to use intermediaries in connection with those matters.

## PART 3

### ELECTRONIC COMMUNICATION - EVIDENTIAL PROVISIONS

#### Effect of delivering information by means of electronic communication

4. —(1) Any claim, certificate, notice, information or evidence which is delivered by means of an electronic communication shall be treated as having been delivered, in the manner or form required by any provision of these Regulations, on the day the conditions imposed—

- (a) by this Schedule; and

## Sch. 9C

(b) by or under an applicable enactment,  
are satisfied.

(2) The Secretary of State may, by a direction, determine that any claim, certificate, notice, information or evidence is to be treated as delivered on a different day (whether earlier or later) from the day provided for in sub-paragraph (1).

**Proof of identity of sender or recipient of information**

5. If it is necessary to prove, for the purpose of any legal proceedings, the identity of—

- (a) the sender of any claim, certificate, notice, information or evidence delivered by means of an electronic communication to an official computer system; or
- (b) the recipient of any such claim, certificate, notice, information or evidence delivered by means of an electronic communication from an official computer system,

the sender or recipient, as the case may be, shall be presumed to be the person recorded as such on that official computer system.

**Proof of delivery of information**

6. —(1) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any claim, certificate, notice, information or evidence this shall be presumed to have been the case where—

- (a) any such claim, certificate, notice, information or evidence has been delivered to the Secretary of State, if the delivery of that claim, certificate, notice, information or evidence has been recorded on an official computer system; or
- (b) any such certificate, notice, information or evidence has been delivered by the Secretary of State, if the delivery of that certificate, notice, information or evidence has been recorded on an official computer system.

(2) If it is necessary to prove, for the purpose of any legal proceedings, that the use of an electronic communication has resulted in the delivery of any such claim, certificate, notice, information or evidence, this shall be presumed not to be the case, if that claim, certificate, notice, information or evidence delivered to the Secretary of State has not been recorded on an official computer system.

(3) If it is necessary to prove, for the purpose of any legal proceedings, when any such claim, certificate, notice, information or evidence sent by means of an electronic communication has been received, the time of receipt shall be presumed to be that recorded on an official computer system.

**Proof of content of information**

7. If it is necessary to prove, for the purpose of any legal proceedings, the content of any claim, certificate, notice, information or evidence sent by means of an electronic communication, the content shall be presumed to be that recorded on an official computer system.◀



## SCHEDULE 10

Regulation 48

## REVOCATIONS

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column(3)</i>
The Mobility Allowance Regulations 1975 (S.I. 1975/1573).	Regulations 5 to 9, 21 and 22.	Social Security Act 1975, sections 37A(a), 81, 114, 119(3) and (4) and 165A(b).
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(c), 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) Regulations 1981 (S.I. 1981/1525).	The whole of the Regulations.	Supplementary Benefits Act 1976, sections 11 and 14(1)(a), (b), (c), (e), (g), (h), (i) and (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(d) sections 7 and 22.

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

(b) 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.

(c) 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.

(d) 1975. c. 61.

## Sch. 10

## SCHEDULE 10 (CONTD)

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column(3)</i>
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, section 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.

Part VII and Schedule 10 contain miscellaneous provisions and revocations.