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STATUTORY INSTRUMENTS

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**1988 No. 522**

**SOCIAL SECURITY**

**The Social Security (Claims and Payments) Amendment Regulations 1988**

<i>Made</i>	- - - -	<i>16th March 1988</i>
<i>Laid before Parliament</i>		<i>16th March 1988</i>
<i>Coming into force</i>	- -	<i>11th April 1988</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 166(2) of the Social Security Act 1975(1) and sections 51(1), 84(1) and 89 of the Social Security Act 1986(2) and all other powers enabling him in that behalf by this instrument which is made before the end of 12 months from the commencement of the enactments under which it is made, hereby makes the following Regulations:

**Citation, commencement and interpretation**

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

(2) Unless the context otherwise requires, any reference in these Regulations to a numbered Part, Regulation or Schedule is a reference to the Part, Regulation or Schedule bearing that number in the Social Security (Claims and Payments) Regulations 1987(3).

**Amendment of regulation 6**

2. In regulation 6 (date of claim)—

(1) in paragraph (1) for the words “Subject to paragraph (2)” there shall be substituted the words “Subject to paragraphs (3) and (4)”;

(2) paragraph (2) shall be omitted;

(3) after paragraph (2) there shall be inserted the following paragraphs—

“(3) In the case of a claim for income support, family credit or a social fund payment for maternity or funeral expenses, where the time for claiming is extended under regulation 19

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(1) 1975 c. 14. Section 166(2) is applied by section 83(1) of the Social Security Act 1986 to regulation-making powers conferred by that Act.  
(2) 1986 c. 50. Section 84(1) is cited because of the meaning which it ascribes to the words “prescribed” and “regulations”.  
(3) S.I.1987/1968.

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.

(4) Paragraph (3) shall not apply when the time for claiming income support or family credit 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.”.

### **Amendment of regulation 16**

**3.** In regulation 16 (date of entitlement under an award for the purpose of payability of benefit and effective date of change of rate)—

(1) after paragraph (1) there shall be inserted the following paragraphs—

“(1A) Where a claim for family credit is made in accordance with paragraph 7(a) of Schedule 4 for a period following the expiration of an existing award of family credit, entitlement shall begin on the day after the expiration of that award.

(1B) Where a claim for family credit is made on or after the date when an up-rating order is made under section 63(2) of the Social Security Act 1986, but before the date when that order comes into force, and—

- (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.”;

(2) for paragraph (3) there shall be substituted the following paragraph—

“(3) For the purposes of this regulation the first day of the benefit week—

- (a) in the case of child benefit is Monday,
- (b) in the case of family credit is Tuesday, and
- (c) in any other case is the day of the week on which the benefit is payable in accordance with regulation 22 (long-term benefits).”;

(3) in paragraph (4) the references to “attendance allowance” and to “family credit” shall be omitted.

### **Amendment of regulation 17**

**4.** In regulation 17 (duration of awards), after paragraph 1 there shall be inserted the following paragraph—

“(1A) Where an award of income support is made in respect of a married or unmarried couple (as defined in section 20(1) of the Social Security Act 1986) and one member of the couple is, at the date of claim, a person to whom section 23 of that Act applies, the award of benefit shall cease when the person to whom section 23 applies returns to work with the same employer.”

### **Amendment of regulation 19**

**5.** In regulation 19 (time for claiming benefit)—

(1) in paragraph (2) for the words “paragraphs (4) and (5)” there shall be substituted the words “paragraph 4”;

(2) paragraph (5) shall be omitted.

### **Amendment of regulation 26**

6. In regulation 26(4), for the reference to “section 23(8)” there shall be substituted a reference to “section 23A(4)”.

### **Amendment of regulation 35**

7. For regulation 35 there shall be substituted the following regulation—

#### **“Deductions from benefit and direct payment to third parties**

35.—(1) 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.

(2) Where a social fund payment for maternity or funeral expenses is made, wholly or in part, in respect of a debt which is, or will be, due to a third person, the instrument of payment may be, and in the case of funeral expenses shall be, made payable to that person and it may, in any case, be delivered or sent to that person as a direct payment.”.

### **Amendment of Schedule 1**

8. In Schedule 1 (benefit claimed and other benefit which may be treated as if claimed in addition or in the alternative), in column (2) after the words “A retirement pension of any other category” there shall be added the words “or graduated retirement benefit(5)”.

### **Amendment of Schedule 4**

9. In Schedule 4 (prescribed times for claiming benefit), in paragraph 10 after the words “benefit under” there shall be inserted the words “section 60 of the Social Security Act 1975 on grounds of special hardship(6) or”.

### **Amendment of Schedule 7**

10. In Schedule 7 (manner and time of payment, effective date of change of circumstances and commencement of entitlement in income support cases)—

(1) in paragraph 2(d) for the reference to “section 23(8)” there shall be substituted a reference to “section 23(A)”;

(2) in paragraph 4—

(a) for the words “In paragraph 3” there shall be substituted the words “In this Schedule”;

(b) after the definition of “benefit week” there shall be inserted the following definition—

““Income Support Regulations” means the Income Support (General) Regulations 1987(7)

(3) in paragraph 6—

(a) in sub-paragraph (2), for the words “Subject to sub-paragraphs (3) and (4)” there shall be substituted the words “Subject to sub-paragraphs (2A) and (3)”;

(b) after sub-paragraph (2) there shall be inserted the following sub-paragraph—

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(4) Section 23A of the Social Security Act 1986 was inserted by the Social Security Act 1988 (c. 7) Schedule 4, paragraph 22.  
(5) Graduated retirement benefit was paid under sections 36 and 37 of the National Insurance Act 1965 (c. 51) which were repealed by the Social Security (Consequential Provisions) Act 1975 (c. 18) and saved by regulation 3 of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (S.I. 1978/393).  
(6) Section 60 was repealed from 1st October 1986 by paragraph 5(2) of Schedule 3 to the Social Security Act 1986 (c. 50).  
(7) S.I. 1987/1967.

“(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 a week entitlement shall commence on the date of claim.”;

(c) for sub-paragraph (3) there shall be substituted the following sub-paragraph—

“(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.”;

(d) sub-paragraph (4) shall be omitted;

(e) for sub-paragraph (5) there shall be substituted the following sub-paragraphs—

“(5) If a claim is made by a claimant within 3 days of the date on which he became resident at a resettlement unit or at a place provided by a voluntary organisation for purposes similar to the purposes for which resettlement units are provided by the Secretary of State or at a centre providing facilities for the rehabilitation of alcoholics or drug addicts and is so resident for the purposes of that rehabilitation, then it shall be treated as having been made on the day he became so resident.

(5A) In the preceding paragraph “resettlement unit” means accommodation provided under section 30 of and paragraph 2 of Schedule 5 to the Supplementary Benefits Act 1976(8).”;

(4) for paragraph 7 there shall be substituted the following paragraph—

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

- (a) where income support is paid in arrears, from the first day of the benefit week in which the change occurs; or
- (b) where income support is paid in advance, from the date of the change of circumstances if that is the first day of the benefit week and otherwise from the next following such day.

(2) In the cases set out in sub-paragraph (3) the change shall have effect from the date of the change of circumstances.

(3) The cases referred to in sub-paragraph (2) are where—

- (a) income support is paid in arrears and entitlement ends for a reason other than that the claimant no longer satisfies the provisions of section 20(3)(b) of the Social Security Act 1986;
- (b) a child or young person referred to in regulation 16(6) of the Income Support Regulations (child in care of a local authority or detained in custody) lives with the claimant for part only of the benefit week;
- (c) a claimant or his partner (as defined in regulation 2(1) of the Income Support Regulations) enters a nursing home or a residential care home (as defined in regulation 19(3) of those Regulations) or residential accommodation (as defined in regulation 21(3)(a) to (d) of those Regulations) for a period of not more than 8 weeks;
- (d) a person referred to in paragraphs 1, 2, 3 or 18 of Schedule 7 to the Income Support Regulations either—
  - (i) ceases to be a patient, or

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(8) 1976 c. 71, as amended by section 6 of, and Schedule 2 to, the Social Security Act 1980 (c. 30) and by section 102 of, and Schedule 17 to, the Local Government Act 1985 (c. 51).

- (ii) a member of his family ceases to be a patient, in either case for a period of less than a week;
  - (e) either—
    - (i) a person referred to in paragraphs 4 or 5 of Schedule 7 to the Income Support Regulations enters board and lodging accommodation (as defined in regulation 20(2) of those regulations), or
    - (ii) a member of his family enters such accommodation;
  - (f) a person to whom section 23 of the Social Security Act 1986<sup>(9)</sup> applies either—
    - (i) becomes incapable of work by reason of disease or bodily or mental disablement, or
    - (ii) enters the maternity period (as defined in section 23(2) of that Act);
  - (g) during the currency of a claim the claimant makes a claim for a relevant social security benefit and as a result his benefit week changes.
- (4) Where, in the cases set out in sub-paragraphs (3)(b) to (f), the circumstances which have caused the award to be changed cease to apply and the award is changed again that second change of circumstances shall take effect from the date of the second change.
- (5) Where income is treated as paid on a particular day under regulation 31(1)(b) or (2) of the Income Support Regulations (date on which income is treated as paid) any change of circumstances resulting from that payment shall have effect on the day on which it was treated as paid.
- (6) Where the change of circumstances requires a reduction in the amount of income support then, if the Secretary of State certifies that it is impracticable to give effect to that reduction from any date specified in the previous sub-paragraphs then, except where sub-paragraph (3)(g) or (5) applies, the change shall have effect from the first day of the following benefit week.”.

### **Amendment of Schedule 9**

- 11.** In Schedule 9 (deductions from benefit and direct payment to third parties)—
- (1) in paragraph 1, after the definition of “family” there shall be inserted the following definition—
    - ““5 per cent. of the personal allowance for the single claimant aged not less than 25” and “10 per cent. of the personal allowance for the single claimant aged not less than 25” means, in each case, where the percentage is not a multiple of 5 pence the sum obtained by rounding that 5 per cent. or that 10 per cent. as the case may be to the next higher such multiple;”;
  - (2) in sub-paragraphs 3(2)(a) and 6(2)(a), the words in parenthesis shall be omitted;
  - (3) in sub-paragraphs 5(5), 6(6) and 8(2) for the reference to “heads (a) to (f)” there shall be substituted a reference to “heads (a) to (e)”.

### **Savings**

- 12.** After regulation 48 there shall be added the following regulation—

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<sup>(9)</sup> 1986 c. 50.

**“Savings**

**49.**—(1) Notwithstanding the repeal of the Family Income Supplements Act 1970<sup>(10)</sup> and of provisions of the Supplementary Benefits Act 1976<sup>(11)</sup>, those Acts and the Regulations made thereunder shall continue to apply to any claim for family income supplement or supplementary benefit whether made before or after the coming into force of these Regulations.

(2) In this regulation—

“family income supplement” means benefit under the Family Income Supplements Act 1970;

“supplementary benefit” means benefit under Part I of the Supplementary Benefits Act 1976.”.

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

16th March 1988

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

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<sup>(10)</sup> 1970 c. 55.  
<sup>(11)</sup> 1976 c. 71.

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## EXPLANATORY NOTE

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

These Regulations amend the Social Security (Claims and Payments) Regulations 1987. 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.

The Regulations contain amendments—

(1) flowing from section 3 of the Social Security Act 1988 (regulations 2(3), 3(1) and 3(3) in so far as it relates to family credit) and paragraph 20 of Schedule 4 and the repeal in Schedule 5 of that Act of section 23(8) of the Social Security Act 1986 (regulations 6 and 10(a));

(2) which save the Family Income Supplements Act 1970 and the Supplementary Benefits Act 1976 and the regulations made thereunder for the purposes of claims for and payments of family income supplement and supplementary benefit (regulation 12);

(3) relating to the procedure for claiming family credit, income support and social fund payments (regulations 2(3), 5 and 10);

(4) to regulation 35 enabling deduction to be made from a social fund payment made in respect of a debt and enabling payment to be made direct to a creditor (regulation 7);

(5) which make minor corrections (regulations 8, 9, and 11).