

1989 No. 1686

**SOCIAL SECURITY**

**The Social Security (Medical Evidence, Claims and Payments) Amendment Regulations 1989**

*Made* - - - - - *18th September 1989*  
*Laid before Parliament* *18th September 1989*  
*Coming into force* *9th October 1989*

The Secretary of State for Social Security, in exercise of the powers conferred by sections 115 and 166(2) of, and Schedules 13 and 20 to the Social Security Act 1975(a), and sections 51(1) and 84(1) of the Social Security Act 1986(b), and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that the proposals in respect of these Regulations should not be referred to it(c), hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security (Medical Evidence, Claims and Payments) Amendment Regulations 1989 and shall come into force for the purposes of regulation 6, in relation to a particular beneficiary, at the beginning of the first benefit week to commence for that beneficiary on or after 9th October 1989 and for all other purposes on 9th October 1989.

(2) In these Regulations—

“the Claims and Payments Regulations” means the Social Security (Claims and Payments) Regulations 1987(d); and

“the Medical Evidence Regulations” means the Social Security (Medical Evidence) Regulations 1976(e).

**Amendment of regulation 5 of the Medical Evidence Regulations**

2. For paragraph (1) of regulation 5 of the Medical Evidence Regulations (self-certificate for first 7 days of a spell of incapacity for work) there shall be substituted the following paragraph—

“(1) Where a person claims sickness or invalidity benefit or severe disablement allowance, the evidence of incapacity required for the purpose of determining his right to benefit—

(a) for a spell of incapacity which lasts less than 8 days, or

(b) in respect of any of the first 7 days of a longer spell of incapacity;

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(a) 1975 c.14; Schedule 20 is cited because of the meaning ascribed to the words “Prescribed” and “Regulations”. The scope of section 115 was extended by section 52(3) and (6) of and Schedule 7, paragraph 4 to the Social Security Act 1986 (c.50) (the 1986 Act) and section 166(2) is applied by section 83(1) of the 1986 Act to the powers conferred by that Act to make regulations.

(b) 1986 c.50. Section 51(1) was amended by Schedule 10, paragraph 7 to the Local Government Finance Act 1988 (c.41). Section 84(1) is cited because of the meaning ascribed to the words “prescribed” and “regulations”.

(c) See section 61(1)(b) and (10) of the 1986 Act; the definition of “regulations” was added to section 61(10) by the Social Security Act 1989 (c.24) Schedule 8, paragraph 12(4).

(d) S.I. 1987/1968; amended by S.I. 1988/522, 1725 and 1989/136.

(e) S.I. 1976/615; to which the relevant amending instruments are S.I. 1982/699 and 1984/1303.

may consist of a self certificate instead of a certificate in the form of a statement in writing given by a doctor in accordance with regulation 2(1).”.

#### **Amendment of regulation 2 of the Claims and Payments Regulations**

3. In regulation 2(1) of the Claims and Payments Regulations (interpretation) in the expression “claim for benefit” paragraph (b) shall be omitted.

#### **Amendment of regulation 6 of the Claims and Payments Regulations**

4.—(1) Regulation 6 of the Claims and Payments Regulations (date of claim) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) for the words “Subject to paragraphs (3) and (4)” there shall be substituted the words “Subject to paragraphs (3), (4) and (5)”.

(3) After paragraph (4) there shall be added the following paragraph—

“(5) Where a person submits a claim for attendance allowance by post and the arrival of that claim at an appropriate office is delayed by postal disruption caused by industrial action, whether within the postal service or elsewhere, the claim 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.”.

#### **Amendment of regulation 19 of the Claims and Payments Regulations**

5. In regulation 19(3) of the Claims and Payments Regulations (time for claiming benefit) for the words “the prescribed time shall be extended to one month” there shall be substituted the words “the prescribed time shall be extended—

- (a) except in a case to which sub-paragraph (b) applies, to one month, and
- (b) where the benefit claimed is family credit and there has been a previous award of that benefit, to one month from the day following the 14th day after the last day of that award.”.

#### **Amendment to Part IV of the Claims and Payments Regulations**

6. After regulation 35 of the Claims and Payments Regulations (deductions from benefit and direct payment to third parties) there shall be inserted the following regulation—

##### **“Transitional provisions for persons in hostels or certain residential accommodation**

**35A.—(1) In this regulation—**

- “benefit week” has the same meaning as it has in Schedule 7, paragraph 4;
- “specified benefit” has the same meaning as it has in Schedule 9, paragraph 1;
- and
- “Schedule 3B” means Schedule 3B to the Income Support (General) Regulations 1987(a).

(2) Expressions used in this regulation and in Schedule 3B have, unless the context otherwise requires, the same meanings in this regulation as they have in that Schedule.

(3) Where—

- (a) immediately before the coming into force of Schedule 3B a beneficiary was in, or temporarily absent from, a hostel and a payment in respect of his accommodation charges was, or would but for that absence have been, made for the first week to a third party under—
  - (i) Schedule 9, paragraph 4 (miscellaneous accommodation costs), or
  - (ii) regulation 34 (payment to another person on the beneficiary’s behalf);and
- (b) the beneficiary is entitled to eligible housing benefit for the period mentioned in sub-paragraph (b) of the expression “eligible housing benefit”; and

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(a) S.I. 1987/1967; to which the relevant amendments are S.I. 1988/663 and 1445, and S.I. 1989/534.

(c) the beneficiary continues to reside in the same hostel, the adjudicating authority shall in a case to which paragraph (6) applies determine that an amount of specified benefit shall, subject to paragraphs (8) and (9), be paid to that third party.

(4) Where a beneficiary is in, or is temporarily absent from, accommodation which—

- (a) was a hostel before the March benefit week; and
- (b) in the second week is residential accommodation within the meaning of regulation 21 of the Income Support (General) Regulations 1987,

paragraph (3) shall apply as if sub-paragraph (b) was omitted and as if the reference to paragraph (6) was a reference to paragraph (7).

(5) An amount of specified benefit shall not be paid to a third party under paragraph (3), as applied by paragraph (4), where the beneficiary—

- (a) is in residential accommodation in the benefit week which commences in the period of 7 consecutive days beginning on 9th October 1989, but
- (b) is a person to whom a protected sum is not applicable in accordance with paragraph 3(3) of Schedule 3B.

(6) This paragraph applies in a case where—

- (a) the amount of the eligible housing benefit referred to in paragraph (3)(b) is less than
- (b) the amount of the direct payment or the payment under regulation 34 in respect of the first week or the amount which would have been payable but for the temporary absence of the beneficiary in the first week;

and where this paragraph applies the amount of the specified benefit determined in accordance with paragraph (3) shall be the difference between the amounts specified in sub-paragraphs (a) and (b).

(7) This paragraph applies where the applicable amount which was appropriate to the beneficiary by way of personal expenses in the first week is less than the total applicable amount appropriate to the beneficiary in the second week; and where this paragraph applies the amount of the specified benefit determined in accordance with paragraph (3) as applied by paragraph (4) shall be the difference between those two amounts.

(8) Where immediately before the coming into force of Schedule 3B a beneficiary was temporarily absent from a hostel and the charge levied on him during that period of absence was less than the full charge for the accommodation, an amount of specified benefit shall not be paid to the third party in respect of the period for which less than the full charge was levied but shall be paid when the full charge is levied.

(9) Specified benefit shall not be paid to a third party in accordance with this regulation 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 regulation plus 10 pence.

(10) for the purposes of paragraph (3)(c) residence shall be regarded as continuous where the only absences occurred during the permitted period and for this purpose "permitted period" has the same meaning as it has in regulation 3A of the Income Support (General) Regulations 1987(a).

(11) This regulation shall cease to apply, where a beneficiary's benefit week in the week commencing 2nd April 1990—

- (i) begins on that day, on the day immediately following 8th April 1990;
- (ii) begins on a day other than that day, on the day immediately following the last day in his benefit week."

#### **Amendment of regulation 38 of the Claims and Payments Regulations**

7.—(1) Regulation 38 of the Claims and Payments Regulations (extinguishment of right to payment of sums by way of benefit etc.) shall be amended in accordance with the following provisions of this regulation.

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(a) S.I. 1987/1967; regulation 3A was inserted by S.I. 1989/1678 regulation 2.

(2) In paragraph (1) for the words "The right to payment of any sum by way of benefit shall be extinguished" there shall be substituted the words "Subject to paragraph (2A), the right to payment of any sum by way of benefit shall be extinguished".

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

"(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 adjudicating authority is satisfied that—

- (a) the Secretary of State has first received 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
- (c) the instrument of payment, which has been sent or given to the person to whom it is payable, has been produced to the Secretary of State; and
- (d) the Secretary of State has certified that no further instrument has been issued as a replacement,

the period of 12 months shall be extended to the date on which the adjudicating authority decides that question, and this regulation shall accordingly apply as though the right to payment had arisen on that date."

#### **Amendment of Schedule 7 to the Claims and Payments Regulations**

8.—(1) Schedule 7 to the Claims and Payments Regulations (manner and time of payment, effective date of change of circumstances and commencement of entitlement in income support cases) shall be amended in accordance with the following provisions of this regulation.

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

"3.—(1) Subject 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.

(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."

(3) After paragraph 3 shall be added the following paragraph—

"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."

#### **Amendment of Schedule 9 to the Claims and Payments Regulations**

9.—(1) Schedule 9 to the Claims and Payments Regulations (deductions from benefit and direct payment to third parties) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 4—

- (a) in sub-paragraph (1) the words—
  - (i) "or Schedule 5 (persons in hostels)";
  - (ii) "or 15 (resettlement units)"; and
  - (iii) "or 15"

shall be all omitted, and

- (b) in sub-paragraph (2)
  - (i) head (b) (calculation of the amount of any payment to a third party where a beneficiary is in a hostel) shall be omitted; and

(ii) in head (c) for the words "14 or, as the case may be, 15" there shall be substituted the words "or, as the case may be, 14".

(3) In paragraph 7(4), in the definition "water undertaker" (water charges), the words "or, in Scotland, the meaning that 'water authority' has in section 3 of the Water (Scotland) Act 1980(a)" shall be omitted.

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

18th September 1989

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

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(a) 1980 c.45.

## EXPLANATORY NOTE

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

These Regulations amend the Social Security (Medical Evidence) Regulations 1976 ("the Medical Evidence Regulations") and the Social Security (Claims and Payments) Regulations 1987 ("the Claims and Payments Regulations").

Regulation 2, which amends regulation 5 of the Medical Evidence Regulations, provides that in the case of a claim for sickness benefit, invalidity benefit or severe disablement allowance a self certificate may be used as evidence to cover the first seven days of the period of incapacity or any period of incapacity which lasts for less than eight days.

The regulations amend the Claims and Payments Regulations by—

- (a) omitting from the expression "claim for benefit" an application for review of an earlier determination of a claim for attendance allowance where the application discloses no grounds upon which the determination may be reviewed (regulation 3);
- (b) allowing a postal claim for attendance allowance to be treated as having been received in the ordinary course of post where its arrival is delayed by industrial action which disrupts postal services (regulation 4);
- (c) extending the time for claiming benefit where family credit has been in payment to six weeks after the end of the previous award (regulation 5);
- (d) introducing transitional arrangements, consequent upon the coming into force on 9th October 1989 of the Income Support (General) Amendment Regulations 1989, for those beneficiaries in hostels and other accommodation which has been treated both as a hostel and residential accommodation, and in respect of whom, before the coming into force of these Regulations, direct payments or payments to another person were made in respect of accommodation costs (regulation 6);
- (e) extending the period for which benefit may be paid where the beneficiary has good cause for submitting a late request for payment to the Secretary of State (regulation 7).

Amendments are also made to Schedule 7 to the Claims and Payments Regulations (manner and time of payment etc. in income support cases) (regulation 8) to provide for the payment of income support for benefit weeks or part-weeks, and to Schedule 9 of the Claims and Payments Regulations (deductions from benefit and direct payment to third parties) consequent upon the introduction in Scotland of community water charge by the Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c.47) (regulation 9).

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