
STATUTORY INSTRUMENTS

1999 No. 1958 (C.51)

SOCIAL SECURITY

**The Social Security Act 1998 (Commencement
No. 8, and Savings and Consequential
and Transitional Provisions) Order 1999**

Made - - - -

4th July 1999

The Secretary of State for Social Security, in exercise of the powers conferred on him by sections 79(3) and (4) and 87(2) and (3) of the Social Security Act 1998^{M1} and of all other powers enabling him in that behalf, hereby makes the following Order:

Marginal Citations

M1 1998 c.14.

Citation and interpretation

1.—(1) This Order may be cited as the Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999.

(2) In this Order, unless the context otherwise requires—

“the Act” means the Social Security Act 1998;

“the Administration Act” means the Social Security Administration Act 1992^{M2};

and references to sections and Schedules are references to sections of, and Schedules to, the Act.

Marginal Citations

M2 1992 c.5.

Appointed day

2.—(1) Subject to paragraph (2) below and to articles 3 and 5 of this Order, 5th July 1999 is the day appointed for the coming into force of—

(a) paragraph 105 of Schedule 7 (co-ordination with Northern Ireland), and section 86(1) in so far as it relates to that paragraph; and

- (b) the provisions of the Act specified in Schedule 1 to this Order, in so far as those provisions are not already in force, for the purposes of—
- (i) guardian’s allowance under Part III of the Social Security Contributions and Benefits Act 1992 ^{M3},
 - (ii) benefits under Part V of that Act (benefits for industrial injuries),
 - (iii) child benefit, and
 - (iv) any matter to which, by virtue of section 170 of the Pension Schemes Act 1993 ^{M4}, provisions of Chapter II of Part I of the Act are to apply.

(2) Paragraphs 63 and 102 of Schedule 7 shall come into force immediately before, respectively, paragraphs 4 and 14 of Schedule 7 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 ^{M5} come into force.

Marginal Citations

M3 1992 c.4.

M4 1993 c.48. Section 170 is substituted by paragraph 131 of Schedule 7 to the Act and amended by section 16(2) of the [Social Security Contributions \(Transfer of Functions, etc.\) Act 1999 \(c.2\)](#) (“the Transfer Act”).

M5 1999 c.2. *See S.I. 1999/1662 (C.47)*.

Savings

3.—(1) Notwithstanding the coming into force of section 39(3) (Part II of the Administration Act to cease to have effect)^{F1}, section 86(2) and Schedule 8 (repeals)] or regulation 59 (revocations) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 ^{M6}—

- (a) sections 18 and 19 of the Administration Act (appeals on questions of law, and review of decisions);
- (b) sections 59 to 61 of, and Schedule 3 to, that Act (regulations about procedural and supplementary matters) as they relate to regulations made in relation to those sections; and
- (c) any regulations made under or in connection with the operation of any of those sections or that Schedule,

shall continue to have effect with respect to any decision given before 1st April 1999 by the Secretary of State under section 17(1)(d) of that Act (decision whether person employed in employed earner’s employment for purposes of industrial injuries benefit).

(2) Notwithstanding the coming into force of paragraph 101 of Schedule 7, section 164(5)(a) of the Administration Act (which provides for certain fees to be paid into the National Insurance Fund) shall continue to have effect in relation to any payment of fees made on or after 5th July 1999 under regulations made by virtue of section 62(2)(b) of that Act in connection with a medical examination conducted before that date.

Textual Amendments

F1 Words in art. 3(1) inserted (29.11.1999) by [The Social Security Act 1998 \(Commencement No. 12 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/3178\)](#), reg. 3(1)(a), **Sch. 20 para. 2(a)** (with reg. 3(1)(b), Schs. 21-23)

Marginal Citations

M6 S.I. 1999/991.

Consequential amendments and modifications

4.—(1) The amendments and modifications made by the following paragraphs of this article shall take effect on 5th July 1999.

^{F2}(2)

(3) The Child Benefit (General) Regulations 1976 ^{M7} shall be amended in accordance with Schedule 3 to this Order.

(4) The Social Security (Claims and Payments) Regulations 1979 ^{M8} shall be amended in accordance with Schedule 4 to this Order.

^{F3}(5)

(6) The Workmen’s Compensation (Supplementation) Scheme 1982 ^{M9} shall be amended in accordance with Schedule 6 to this Order.

(7) The Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1983 ^{M10} shall be amended in accordance with Schedule 7 to this Order.

(8) The Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985 ^{M11} shall be amended in accordance with Schedule 8 to this Order.

^{F4}(9)

^{F4}(10)

^{F4}(11)

^{F4}(12)

Textual Amendments

F2 Art. 4(2) revoked (7.4.2003) by [The Guardians Allowance \(General\) Regulations 2003 \(S.I. 2003/495\)](#), regs. 1, 11, **Sch. Pt. 1**

F3 Art. 4(5) revoked (29.11.1999) by [The Social Security Act 1998 \(Commencement No. 12 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/3178\)](#), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

F4 Art. 4(9)-(12) revoked (29.11.1999) by [The Social Security Act 1998 \(Commencement No. 12 and Consequential and Transitional Provisions\) Order 1999 \(S.I. 1999/3178\)](#), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

Modifications etc. (not altering text)

C1 Art. 4(9)(10) modified (7.4.2003 for specified purposes) by [The Child Benefit and Guardian’s Allowance \(Administration\) Regulations 2003 \(S.I. 2003/492\)](#), regs. 1, 43, **Sch. 3 Pt. 1** (with regs. 1(2), 44)

Marginal Citations

M7 S.I. 1976/965; relevant amending instruments are S.I. 1988/1227, 1996/2327, 2530 and 1998/563.

M8 S.I. 1979/628; relevant amending instruments are S.I. 1983/186 and 1994/458.

M9 S.I. 1982/1489; relevant amending instruments are S.I. 1987/419, 1990/2538, 1997/371, 1998/571 and 1999/720.

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

M10 [S.I. 1983/136](#); relevant amending instruments are [S.I. 1983/504](#), 1985/491, 1987/400, 824, 1990/2538, 1993/1363 and 1997/824.

M11 [S.I. 1985/967](#), as amended by [S.I. 1986/1374](#), 1561, 1987/335, 2112, 1988/553, 1989/1207, 1990/2269, 1991/1938, 1993/861, 862, 1985, 1994/2343, 1996/425 and 1997/810.

Transitional provisions

5. Schedule 12 to this Order shall have effect.

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

Angela Eagle
Parliamentary Under-Secretary of State,
Department of Social Security

SCHEDULE 1

Article 2

PROVISIONS BROUGHT INTO FORCE ON 5th JULY 1999 FOR PURPOSES SPECIFIED IN ARTICLE 2(1)(b)

<i>Provision of the Act</i>	<i>Subject matter</i>
Section 1(a)	Transfer of adjudication officer's functions to Secretary of State
Section 2(2)(a)	Use of computers
Section 4(1)(a), in so far as it relates to social security appeal tribunals and medical appeal tribunals, and (2)(a)	Unified appeal tribunals
Section 8(1)(a) and (c), (2), (3)(a) and (g), (4) and (5) M12	Decisions by Secretary of State
Sections 9 and 10 M12	Revisions, and decisions superseding earlier decisions
Section 11(1) and (2), and (3) except the definition of "the current legislation" in so far as it relates to the Jobseekers Act 1995 M13	Regulations with respect to decisions, and assistance from experts
and the Social Security (Recovery of Benefits) Act 1997 M14	
and the definition of the former legislation in so far as it relates to Part II of the Social Security Act 1986	
Section 12(1)(a) (in so far as it relates to paragraphs 4, 5, 6(a) and 9 of Schedule 2) and (b) (in so far as it relates to paragraphs 1, 2, 3(a) and (c), 4, 5 (except in so far as that paragraph relates to section 71A of the Administration Act M15	Appeal to appeal tribunal
), 6, 7 and 9 of Schedule 3), (2), (3), (4) (except in so far as it relates to section 74 of the Administration Act) and (5) to (9) M16	
Section 13 M17	Redetermination etc. of appeals
Section 14 and Schedule 4 M17	Appeal from tribunal to Commissioner
Section 15	Appeal from Commissioner on point of law
Section 16 and Schedule 5 M18	Procedure

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

Section 17	Finality of decisions
Sections 18(1) and 19 M18	Matters arising as respects decisions, and medical examination required by Secretary of State
Section 20(1), (2) and (3)(a) M19	Medical examination required by appeal tribunal
Sections 21 to 25 M19	Suspension and termination of benefits, and decisions dependent on other cases
Section 26	Appeals involving issues that arise on appeal in other cases
Section 27	Restrictions on entitlement to benefit in cases of error
Section 28 (except subsection (3)(d) and (e)) M20	Correction of errors, and setting aside of decisions
Sections 29 and 30	Industrial accidents
Section 39 M20	Interpretation etc. of Chapter II of Part I of the Act
Schedule 7 M21	Minor and consequential amendments—
in the respects specified below, and section 86(1) in so far as it relates to them—	
paragraph 11	provision as to forfeiture
paragraphs 63 to 65	provisions concerned with industrial injuries and diseases
paragraphs 66 to 71	miscellaneous provisions relating to benefits
paragraph 79(1)	claims and payments
paragraph 81	overpayments
paragraph 84	issues arising in proceedings
paragraphs 88 and 89	disclosure of information, and notification of deaths
paragraphs 101 and 102	general financial matters
paragraphs 106 to 108	reciprocal agreements, and travelling expenses
paragraph 111(b)	definition of “claimant”
paragraph 115	old cases payments
paragraph 129	information about pensions
paragraphs 130(2) and 131	decisions and appeals about pension schemes
Schedule 8 in respect of the repeals specified below, and section 86(2) in so far as it relates to them—	repeals
in the Administration Act—	

section 164(5)(a)

in the Pension Schemes Act 1993—

section 167(4)

Marginal Citations

- M12** Sections 8 and 10 are amended by paragraphs 22 and 23 respectively of Schedule 7 to the Transfer Act.
- M13** [1995 c.18](#).
- M14** [1997 c.27](#).
- M15** [1992 c.5](#); section 71A was inserted by section 18 of the [Jobseekers Act 1995 \(c.18\)](#).
- M16** Section 12 and Schedule 3 are amended by paragraphs 25 and 36 respectively of Schedule 7 to the Transfer Act.
- M17** Sections 13 and 14 are amended by paragraphs 26 and 27 respectively of that Schedule.
- M18** Sections 16, 18 and 19 are amended by paragraphs 28, 29 and 30 respectively of that Schedule.
- M19** Sections 20 and 21 are amended by paragraphs 31 and 32 respectively of that Schedule.
- M20** Sections 28 and 39 are amended by paragraphs 34 and 35 respectively of Schedule 7 to the Transfer Act.
- M21** Certain provisions of Schedule 7 are repealed by Schedule 10 to the Transfer Act.

SCHEDULE 2

Article 4(2)

**AMENDMENT OF THE SOCIAL SECURITY
(GUARDIAN'S ALLOWANCES) REGULATIONS 1975**

F5
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Textual Amendments

- F5** Sch. 2 revoked (7.4.2003) by [The Guardians Allowance \(General\) Regulations 2003 \(S.I. 2003/495\)](#), regs. 1, 11, [Sch. Pt. 1](#)

Textual Amendments

- F5** Sch. 2 revoked (7.4.2003) by [The Guardians Allowance \(General\) Regulations 2003 \(S.I. 2003/495\)](#), regs. 1, 11, [Sch. Pt. 1](#)

SCHEDULE 3

Article 4(3)

AMENDMENT OF THE CHILD BENEFIT (GENERAL) REGULATIONS 1976

F6
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Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

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Textual Amendments
F6 Sch. 3 revoked (7.4.2003) by [The Child Benefit \(General\) Regulations 2003 \(S.I. 2003/493\)](#), reg. 1(1), [Sch. 2 Pt. 1](#)

F6

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Textual Amendments
F6 Sch. 3 revoked (7.4.2003) by [The Child Benefit \(General\) Regulations 2003 \(S.I. 2003/493\)](#), reg. 1(1), [Sch. 2 Pt. 1](#)

SCHEDULE 4

Article 4(4)

**AMENDMENT OF THE SOCIAL SECURITY
(CLAIMS AND PAYMENTS) REGULATIONS 1979**

1. In regulation 2(1) (interpretation) the definition of “determining authority” shall be omitted.
2. In regulation 26 (obligations of claimants for, and beneficiaries in receipt of, disablement benefit)—
 - (a) in paragraph (1)—
 - (i) in sub-paragraph (a) for the words “medical authority” there shall be substituted the words “ medical practitioner who has experience in the issues specified in regulation 12(1) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 ^{M22} ”, and
 - (ii) in sub-paragraph (b) the words from “or by any” to the end of the sub-paragraph shall be omitted;
 - (b) in paragraph (2) for the words from “to examination” to the end of the paragraph there shall be substituted the words “ to examination before the expiration of the period of 6 days beginning with the date of the notice or such shorter period as may be reasonable in the circumstances ”; and
 - (c) paragraph (4) shall be omitted.

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Marginal Citations
M22 [S.I. 1999/991](#).

F7 SCHEDULE 5

Article 4(5)

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Textual Amendments

- F7** Sch. 5 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

SCHEDULE 6

Article 4(6)

AMENDMENT OF THE WORKMEN'S COMPENSATION (SUPPLEMENTATION) SCHEME 1982

1. In article 1 (citation, commencement and interpretation)—
 - (a) after the definition of “the 1965 Act” there shall be inserted the following definition “ “the 1998 Act” means the Social Security Act 1998; ”;
 - (b) for the definition of “the appropriate determining authority” there shall be substituted the following definition—

““the appropriate determining authority” means the Secretary of State or, as the case may be, an appeal tribunal or a Commissioner within the meaning of section 39 of the 1998 Act;”
 - (c) for the definition of “claimant” there shall be substituted the following definition—

““claimant” means a person claiming an allowance and includes, in relation to the revision or supersession of a decision, a beneficiary under the award or affected by the decision;”;
 - (d) the definition of “the adjudication officer” shall be omitted; and
 - (e) after the definition of “medical board” there shall be inserted the following definition:—

““medical practitioner” means a medical practitioner who has experience in the issues specified in regulation 12(1) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;”.
2. In article 6(5) (amount of workmen’s compensation) for the word “review” there shall be substituted the words “ revision or supersession ”;
3. For article 12 (determination of questions arising under the scheme) there shall be substituted the following article—

“ Determination of claims and applications for revision and supersession arising under the scheme.

12. Subject to the provisions of Part IV of this scheme, any question relating to any allowance or benefit under this scheme shall be determined as if it had arisen under Part V of the Social Security Contributions and Benefits Act 1992 and, except where this scheme otherwise provides, the provisions of the 1998 Act, and of the Social Security (General Benefit) Regulations 1982, the Social Security (Claims and Payments) Regulations 1987, the Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988, the Social Security and Child Support (Decisions and Appeals) Regulations 1999 and the Social Security Commissioners (Procedure) Regulations 1999 ^{M23} which are specified in Schedule 2 to this scheme shall, with the necessary modifications, apply for the purposes of this scheme.”.

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

Marginal Citations

M23 S.I. 1999/1495.

4. For article 13 (reference of questions to the medical board) there shall be substituted the following article—

“ Reference for report to a medical practitioner

13.—(1) Subject to the provisions of paragraph (2) of this article, where the Secretary of State has decided that a claimant is not totally disabled as a result of pneumoconiosis for the purposes of a compensation scheme, and that claimant claims a major incapacity allowance, that claim shall be referred by the Secretary of State to a medical practitioner for advice.

(2) For the purposes of paragraph (1) of this article—

- (a) in a case where the claimant has been held in arbitration proceedings under the Workmen’s Compensation Acts to be totally disabled as a result of pneumoconiosis, the Secretary of State may determine that the claimant is so disabled without referring the question to a medical practitioner;
- (b) in a case where the Secretary of State is of the opinion that any other decision or determination disposes of the claim, he may, without referring the question whether the claimant is totally disabled as a result of pneumoconiosis to a medical practitioner, make a decision that an award cannot be made on the claim.”.

5. For article 14 (issue of certificate by a medical board) there shall be substituted the following article—

“ Provision of a report by a medical practitioner

14. Where, in pursuance of a reference under article 13 of this scheme, a medical practitioner is satisfied, having examined the claimant, that he is totally disabled as a result of pneumoconiosis, he shall report his findings to the Secretary of State accordingly.”.

6. In article 15 (radiographic examination) for the words—

- (a) “medical board” there shall be substituted the words “ Secretary of State ”;
- (b) “where they consider necessary, to make or cause to be made” there shall be substituted the words “ where he considers it necessary, to cause to be made ”.

7. In article 17 (obligations of claimants and of persons in receipt of allowances to undergo medical examination)—

- (a) in paragraph (1), the words “by a medical authority (as defined in paragraph (4) of this article)” shall be omitted;
- (b) in paragraph (2)(a), for the words “the medical board” there shall be substituted the words “ a medical practitioner ”;
- (c) paragraph (4) shall be omitted.

8. For article 26 (review of decisions of the Board) there shall be substituted the following article—

“26.—(1) The Secretary of State may at any time and from time to time revise or supersede any decision given by the Board under provisions of the Workmen’s Compensation (Supplementation) Scheme 1966 in force immediately before 1st July 1977, if—

(a) the decision was erroneous in view of new facts which have been brought to his notice since the date on which the decision was given or by reason of some mistake being made with respect to the facts or the law; or

(b) there has been any relevant change of circumstances since the decision was given.

(2) A decision of the Board may be revised or superseded by the Secretary of State on his own initiative or by application in writing to him for the purpose.

(3) Where it appears to the Secretary of State that an issue has arisen whether the decision as to an award of an allowance to which this article relates ought to be revised or superseded in accordance with the provisions of paragraph (1), he may decide that payment of the allowance shall be suspended in whole or in part until that issue has been determined.

(4) Repayment of sums by way of an allowance in pursuance of the original decision shall not be required under this article in any case where it is shown to the satisfaction of the Secretary of State that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.

(5) For the purposes of this article a decision given under any scheme made under the 1951 Act shall be treated as if it had been given under the Workmen's Compensation (Supplementation) Scheme 1966 as it was immediately before the Workmen's Compensation (Supplementation) Amendment Scheme 1977 came into operation.

(6) On a revision or supersession of a decision given by the Board under any scheme made under the 1951 Act in force before 1st March 1966 a decision given by the Secretary of State may determine any issues referred to him arising under any such scheme.”.

9. In article 33 (review)—

(a) for the words “a question” there shall be substituted the words “an issue”;

(b) for the words “reviewed by the adjudication officer” there shall be substituted the words “considered by the Secretary of State who may decide the issue afresh”;

(c) for the words “the question” there shall be substituted the words “the issue”.

11. For Schedule 2 there shall be substituted the following Schedule—

“**SCHEDULE 2**

Articles 11 and 12

**PROVISIONS OF THE 1998 ACT OR REGULATIONS APPLICABLE
(WITH THE NECESSARY MODIFICATIONS) TO THIS SCHEME**

<i>Provisions of the 1998 Act or of Regulations</i>	<i>Subject matter</i>
Social Security Act 1998—	
Section 8	Decision by Secretary of State
Sections 9 and 10	Revisions, and supersession of decisions
Section 11	Regulations with respect to decisions.
Section 12	Appeal to an appeal tribunal
Section 14	Appeal from an appeal tribunal to Commissioner
The Social Security (General Benefit) Regulations 1982—	

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

Regulation 3	Suspension of payment of benefit during imprisonment etc.
The Society Security (Claims and Payments) Regulations 1987—	
Regulation 4	Making a claim for benefit
Regulation 5	Amendment and withdrawal of claim
Regulation 6	Date of claim
Regulation 16	Date of entitlement under an award for the purpose of payability of benefit and effective date of change of rate
Regulation 17	Duration of awards
Regulation 20	Time and manner of payment: general provision
Regulation 20A	Payment on presentation of an instrument for benefit payment
Regulation 21	Direct credit transfer
Regulation 22	Long term benefits
Regulation 25	Payment of attendance allowance and constant attendance allowance at a daily rate
Regulation 28	Fractional amounts of benefit
Regulation 30	Payments on death
Regulation 33	Persons unable to act
Regulation 38	Extinguishment of right to payment where not obtained within prescribed period
Regulation 47	Instruments of payment
Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988—	
Regulation 5	Offsetting prior payment against subsequent award
The Social Security and Child Support (Decisions and Appeals) Regulations 1999—	
Regulation 3	Revision of decisions
Regulation 4	Late application for a revision
Regulation 5	Date from which a decision revised under section 9 takes effect
The Social Security and Child Support (Decisions and Appeals) Regulations 1999—	
Regulation 6	Supersession of decisions
Regulation 7	Date from which a decision superseded under section 10 takes effect
Regulation 8	Effective date for late notification of change of circumstances

Regulation 12	Decisions of the Secretary of State relating to industrial injuries benefit
Regulation 16	Suspension in prescribed cases
Regulation 17	Provision of information or evidence
Regulation 18	Termination in cases of failure to furnish information or evidence
Regulation 19	Suspension and termination for failure to submit to medical examination
Regulation 20	Making of payments which have been suspended
Regulation 25	Other persons with a right of appeal
Regulation 26	Decisions against which an appeal lies
Regulation 27	Decisions against which no appeal lies
Regulation 28	Notice of decision against which appeal lies
Regulation 30	Appeal against a decision which has been revised
Regulation 31	Time within which an appeal is to be brought
Regulation 32	Late appeals
Regulation 33	Making of appeals and applications
Regulation 34	Death of a party to an appeal
Regulation 35	Persons appointed to the panel
Regulation 36	Composition of appeal tribunals
Regulation 37	Assignment of clerks to appeal tribunals: function of clerks
Regulation 38	Consideration and determination of appeals and referrals
Regulation 39	Directions concerning oral hearings
Regulation 40	Withdrawal of appeal or referral
Regulation 41	Medical examination required by appeal tribunal
Regulation 42	Non-disclosure of medical advice or evidence
Regulation 43	Summoning of witnesses and administration of oaths
Regulation 46	Appeals which may be struck out
Regulation 47	Reinstatement of struck out appeals
Regulation 48	Misconceived appeals
Regulation 49	Procedure at oral hearings
Regulation 50	Manner of providing expert assistance

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

Regulation 51	Postponement and adjournment
Regulation 52	Physical examination at oral hearings
Regulation 53	Decisions of appeal tribunals
Regulation 54	Late applications for a statement of reasons of tribunal decision
Regulation 55	Record of tribunal proceedings
Regulation 56	Correction of accidental errors
The Social Security and Child Support (Decisions and Appeals) Regulations 1999—	
Regulation 57	Setting aside decisions on certain grounds
Regulation 58	Application for leave to appeal to a Commissioner from an appeal tribunal
The Social Security Commissioners (Procedure) Regulations 1999—	
Regulation 5	General powers of a Commissioner
Regulation 7	Delegation of functions to authorised officers
Regulation 8	Manner of and time for service of notices, etc.
Regulation 9	Application to a Commissioner for leave to appeal
Regulation 10	Notice of application to a Commissioner for leave to appeal
Regulation 12	Notice of appeal
Regulation 13	Time limit for appealing after leave obtained
Regulation 16	Acknowledgement of a notice of appeal or a reference and notification to each respondent
Regulation 18	Respondent's written observations
Regulation 19	Written observations in reply
Regulation 20	Directions
Regulation 22	Non-disclosure of medical evidence
Regulation 23	Requests for oral hearings
Regulation 24	Hearings
Regulation 25	Summoning of witnesses
Regulation 26	Withdrawal of applications for leave to appeal, appeals and references
Regulation 27	Irregularities
Regulation 28	Determinations and decisions of a Commissioner
Regulation 30	Correction of accidental errors in decisions
Regulation 31	Setting aside of decisions on certain grounds

Regulation 32	Provisions common to Regulations 30 and 31
Regulation 33	Application to a Commissioner for leave to appeal to the Appellate Court”

SCHEDULE 7

Article 4(7)

AMENDMENT OF THE PNEUMOCONIOSIS, BYSSINOSIS AND MISCELLANEOUS DISEASES BENEFIT SCHEME 1983

1. In article 1(2) (citation, commencement and interpretation)—
 - (a) after the definition of “the Act” the following definition shall be inserted—

““the 1998 Act” means the Social Security Act 1998;”;
 - (b) for the definition of “the appropriate determining authority” there shall be substituted the following definition—

““the appropriate determining authority” means the Secretary of State or, as the case may be, an appeal tribunal or Commissioner within the meaning of section 39 of the 1998 Act;”;
 - (c) for the definition of “claimant” there shall be substituted the following definition—

““claimant” means a person claiming an allowance or death benefit under this scheme and includes, in relation to the revision or supersession of a decision, a person affected by that decision;”;
 - (d) after the definition of “foundry” the following definition shall be inserted—

““medical practitioner” means a medical practitioner who has experience in the issues specified in regulation 12(1) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;”.
2. In article 2(2)(c) (benefit payable under this scheme), for the words “certified as provided in article 14” there shall be substituted the words “decided by the Secretary of State”.
3. In article 4(1) (allowances payable under this scheme) for the words “to the date certified by a medical board” there shall be substituted the words “to the date decided by the Secretary of State”.
4. For article 12 there shall be substituted the following article—

“ Questions arising under the scheme

- 12.** Subject to the provisions of Part IV, any question relating to any allowance or benefit under this scheme shall be determined as if it had arisen under Part V of the Social Security Contributions and Benefits Act 1992 and, except where the scheme otherwise provides, the provisions of the 1998 Act and of the Social Security (General Benefit) Regulations 1982, the Social Security (Claims and Payments) Regulations 1987, the Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988, the Social Security and Child Support (Decisions and Appeals) Regulations 1999 and the Social Security Commissioners (Procedure) Regulations 1999 which are specified in Schedule 3 shall, with the necessary modifications, apply for the purposes of this scheme.”.
5. For article 13 (reference of questions in respect of pneumoconiosis or byssinosis to medical authorities) there shall be substituted the following article—

“MEDICAL REPORT

Report of a medical practitioner

13.—(1) Subject to the provisions of paragraph (3), the Secretary of State, on consideration of a claim for an allowance in respect of pneumoconiosis or byssinosis, shall refer the case to a medical practitioner for advice.

(2) The Secretary of State need not refer the case as provided in paragraph (1), but may determine that an award cannot be made on the claim if the claimant fails to satisfy him—

- (a) that he fulfils the conditions relating to the allowance;
- (b) that there is reasonable cause for suspecting that he is totally or partially disabled within the meaning of this scheme as a result of pneumoconiosis or byssinosis or, where he has previously been awarded an allowance in respect of partial disablement and claims that he has become totally disabled, that he is totally disabled.

(3) For the purposes of determining whether there is reasonable cause for suspecting that the claimant is totally or partially disabled by pneumoconiosis, the Secretary of State shall have power, in any case where he considers necessary, to obtain a radiological report on the case.”.

6. In article 14 (issue of certificate by medical board)—

- (a) for the heading “**Issue of certificate by medical board**” there shall be substituted the following heading: “ **Provision of a report by a medical practitioner** ”;
- (b) in paragraph (1) for the words—
 - (i) “the medical board” in the first place where they occur, there shall be substituted the words “ a medical practitioner ”;
 - (ii) “the medical board” in the second place where they occur, there shall be substituted the words “ the medical practitioner ”;
 - (iii) “give a certificate” there shall be substituted the words “ provide a report ”;
- (c) for paragraph (2) there shall be substituted the following paragraph—

“(2) For the purposes of the last foregoing paragraph of this article, in the case of a claimant disabled as a result of byssinosis, the medical practitioner shall not make a report as provided in this paragraph unless satisfied that the disablement is likely to be permanent, in which event he shall include in his report a statement to that effect, together with his opinion as to the degree of disablement.”
- (d) for paragraph (3) substitute the following paragraph—

“(3) The medical practitioner may provide a report in accordance with the provisions of paragraph (1) without examining the claimant, if satisfied that such examination can be dispensed with, having regard to any medical reports available as a result of any previous medical examination of the claimant carried out by a medical board or a specially qualified medical practitioner or a medical practitioner, whether in accordance with this scheme or otherwise, or if the claimant has died after having claimed the allowance but before having been examined by a medical board or a medical practitioner on the reference under article 13(1).”;
- (e) in paragraph (4)—
 - (i) for the word “certificate” there shall be substituted the word “ report ”; and
 - (ii) for the words “the medical board”, in both places where they appear, there shall be substituted the words “ the medical practitioner ”;

- (f) in paragraph (5) for the words—
 - (i) “adjudication officer” there shall be substituted the words “ Secretary of State ”; and
 - (ii) “the medical board, who shall determine the question and shall give a certificate accordingly” there shall be substituted the words “ a medical practitioner who shall provide a report to the Secretary of State ”;
 - (g) paragraph (6) shall be omitted;
 - (h) for paragraph (7) there shall be substituted the following paragraph—

“(7) A decision of the Secretary of State following the provision of a report provided under paragraph (5) stating that the deceased did not suffer from pneumoconiosis, or from pneumoconiosis accompanied by tuberculosis, may, to the extent mentioned in that paragraph, be revised by the Secretary of State.”.
7. In article 16 (obligation to undergo medical examination)—
- (a) in paragraph (1) for the words “medical authority (as defined in paragraph (4))” there shall be substituted the words “ medical practitioner ”;
 - (b) in paragraph (2) for the words “medical board” there shall be substituted the words “ medical practitioner ”;
 - (c) paragraph (4) shall be omitted.
8. For article 26 there shall be substituted the following article—

“ Review of decisions of the Administrative Board

26.—(1) The Secretary of State may at any time and from time to time revise or supersede any decision given by the Administrative Board under provisions of the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 in force immediately before 1st July 1977, if—

- (a) the decision was erroneous in view of new facts which have been brought to his notice since the date on which the decision was given or by reason of some mistake being made with respect to the facts or the law; or
- (b) there has been any relevant change of circumstances since the decision was given.

(2) A decision of the Administrative Board may be revised or superseded by the Secretary of State on his own initiative or by application in writing to him for the purpose.

(3) Where it appears to the Secretary of State that an issue has arisen whether the decision as to an award of an allowance to which this article relates ought to be revised or superseded in accordance with the provisions of paragraph (1), he may decide that payment of the allowance shall be suspended in whole or in part until that issue has been determined.

(4) Repayment of sums by way of an allowance in pursuance of the original decision shall not be required under this article in any case where it is shown to the satisfaction of the Secretary of State that in the obtaining and receipt of the benefit the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment.

(5) For the purposes of this article a decision given under any scheme made under the Industrial Diseases (Benefit) Acts shall be treated as if it had been a decision given under the Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefit Scheme 1966 as in force immediately before 1st July 1977.

(6) On a revision or supersession of a decision given by the Administrative Board under any scheme made under the Industrial Diseases (Benefit) Acts in force before 1st March 1966 the Secretary of State may determine any issue referred to him arising under the scheme”.

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

9. For Schedule 3 there shall be substituted the following Schedule—

“**SCHEDULE 3**

Articles 11 and 12

**PROVISIONS OF THE 1998 ACT OR REGULATIONS APPLICABLE
(WITH THE NECESSARY MODIFICATIONS) TO THIS SCHEME**

<i>Provisions of the 1998 Act or of Regulations</i>	<i>Subject matter</i>
Social Security Act 1998—	
Section 8	Decisions by Secretary of State
Sections 9 and 10	Revisions, and supersession of decisions
Section 11	Regulations with respect to decisions.
Section 12	Appeal to an appeal tribunal
Section 14	Appeal from an appeal tribunal to Commissioner
The Social Security (General Benefit) Regulations 1982—	
Regulation 3	Suspension of payment of benefit during imprisonment etc.
The Social Security (Claims and Payments) Regulations 1987—	
Regulation 4	Making a claim for benefit
Regulation 5	Amendment and withdrawal of claim
Regulation 6	Date of claim
Regulation 16	Date of entitlement under an award for the purpose of payability of benefit and effective date of change of rate
Regulation 17	Duration of awards
Regulation 20	Time and manner of payment: general provision
Regulation 20A	Payment on presentation of an instrument for benefit payment
Regulation 21	Direct credit transfer
Regulation 22	Long term benefits
Regulation 25	Payment of attendance allowance and constant attendance allowance at a daily rate
Regulation 28	Fractional amounts of benefit
Regulation 30	Payments on death
Regulation 33	Persons unable to act
Regulation 38	Extinguishment of right to payment where not obtained within prescribed period
Regulation 47	Instruments of payment

Social Security (Payments on Account, Overpayments and Recovery) Regulations 1988—	
Regulation 5	Offsetting prior payment against subsequent award
The Social Security and Child Support (Decisions and Appeals) Regulations 1999—	
Regulation 3	Revision of decisions
Regulation 4	Late application for a revision
Regulation 5	Date from which a decision revised under section 9 takes effect
The Social Security and Child Support (Decisions and Appeals) Regulations 1999—	
Regulation 6	Supersession of decisions
Regulation 7	Date from which a decision superseded under section 10 takes effect
Regulation 8	Effective date for late notification of change of circumstances
Regulation 12	Decisions of the Secretary of State relating to industrial injuries benefit
Regulation 16	Suspension in prescribed cases
Regulation 17	Provision of information or evidence
Regulation 18	Termination in cases of failure to furnish information or evidence
Regulation 19	Suspension and termination for failure to submit to medical examination
Regulation 20	Making of payments which have been suspended
Regulation 25	Other persons with a right of appeal
Regulation 26	Decisions against which an appeal lies
Regulation 27	Decisions against which no appeal lies
Regulation 28	Notice of decision against which appeal lies
Regulation 30	Appeal against a decision which has been revised
Regulation 31	Time within which an appeal is to be brought
Regulation 32	Late appeals
Regulation 33	Making of appeals and applications
Regulation 34	Death of a party to an appeal
Regulation 35	Persons appointed to the panel
Regulation 36	Composition of appeal tribunals
Regulation 37	Assignment of clerks to appeal tribunals: function of clerks

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

Regulation 38	Consideration and determination of appeals and referrals
Regulation 39	Directions concerning oral hearings
Regulation 40	Withdrawal of appeal or referral
Regulation 41	Medical examination required by appeal tribunal
Regulation 42	Non-disclosure of medical advice or evidence
Regulation 43	Summoning of witnesses and administration of oaths
Regulation 46	Appeals which may be struck out
Regulation 47	Reinstatement of struck out appeals
Regulation 48	Misconceived appeals
Regulation 49	Procedure at oral hearings
Regulation 50	Manner of providing expert assistance
Regulation 51	Postponement and adjournment
Regulation 52	Physical examination at oral hearings
Regulation 53	Decisions of appeal tribunals
Regulation 54	Late applications for a statement of reasons of tribunal decision
The Social Security and Child Support (Decisions and Appeals) Regulations 1999—	
Regulation 55	Record of tribunal proceedings
Regulation 56	Correction of accidental errors
Regulation 57	Setting aside decisions on certain grounds
Regulation 58	Application for leave to appeal to a Commissioner from an appeal tribunal
The Social Security Commissioners (Procedure) Regulations 1999—	
Regulation 5	General powers of a Commissioner
Regulation 7	Delegation of functions to authorised officers
Regulation 8	Manner of and time for service of notices, etc.
Regulation 9	Application to a Commissioner for leave to appeal
Regulation 10	Notice of application to a Commissioner for leave to appeal
Regulation 12	Notice of appeal
Regulation 13	Time limit for appealing after leave obtained
Regulation 16	Acknowledgement of a notice of appeal or a reference and notification to each respondent
Regulation 18	Respondent's written observations

Regulation 19	Written observations in reply
Regulation 20	Directions
Regulation 22	Non-disclosure of medical evidence
Regulation 23	Requests for oral hearings
Regulation 24	Hearings
Regulation 25	Summoning of witnesses
Regulation 26	Withdrawal of applications for leave to appeal, appeals and references
Regulation 27	Irregularities
Regulation 28	Determinations and decisions of a Commissioner
Regulation 30	Correction of accidental errors in decisions
Regulation 31	Setting aside of decisions on certain grounds
Regulation 32	Provisions common to Regulations 30 and 31
Regulation 33	Application to a Commissioner for leave to appeal to the Appellate Court”

SCHEDULE 8

Article 4(8)

AMENDMENT OF THE SOCIAL SECURITY (INDUSTRIAL INJURIES) (PRESCRIBED DISEASES) REGULATIONS 1985

- In regulation 1(2) (citation, commencement and interpretation)—
 - after the definition of “the Act” there shall be inserted the following definition—

““the 1998 Act” means the Social Security Act 1998;”;
 - the definitions of “adjudicating medical authority”, “special medical board” and “specially qualified adjudicating medical practitioner” shall be omitted;
 - after the definition of “medical board” there shall be inserted the following definition—

““medical practitioner” means a medical practitioner who has experience in the issues specified in regulation 12(1) of the Social Security and Child Support (Decisions and Appeals) Regulations 1999;”.
- In regulation 6(1)(a) (date of onset) the words “subject to the provisions of section 117(4), as modified by paragraph 1 of Schedule 3 to the Adjudication Regulations,” shall be omitted.
- In regulation 8(4) (workmen’s compensation cases) for the word—
 - “question” (in both places) there shall be substituted the word “ issue ”;
 - “reviewed” there shall be substituted the words “ revised or superseded ”;
 - “review” there shall be substituted the words “ revision or supersession ”.
- In regulation 9 (re-employment of pneumoconiotics and special provisions for benefit (workmen’s compensation cases))—

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

- (a) in paragraph (1) for the words “special medical board or a specially qualified adjudicating medical practitioner” there shall be substituted the words “ medical practitioner ”;
 - (b) in paragraph (2)—
 - (i) for sub-paragraph (a) there shall be substituted the following sub-paragraph—
 - “(a) A medical practitioner shall provide a report to the Secretary of State to enable him to determine at what degree the extent of disablement resulting from pneumoconiosis should be assessed in his case.”;
 - (ii) in sub-paragraph (b) for the words “a specially qualified adjudicating medical practitioner, a special medical board or a medical appeal tribunal” there shall be substituted the words “ the Secretary of State or an appeal tribunal ”;
 - (iii) in sub-paragraph (c) for the words “to the extent certified in the decision of the specially qualified adjudicating medical practitioner, the special medical board or medical appeal tribunal given under sub-paragraph (a) of this paragraph” there shall be substituted the words “ to the extent decided by the Secretary of State or an appeal tribunal ”.
5. In regulation 13 (benefit not payable in cases covered by the Industrial Injuries and Diseases (Old Cases) Act 1975) for the words “reversed on review” there shall be substituted the words “ revised or superseded so as to terminate entitlement ”.
6. In regulation 15A (aggregation of percentages of disablement) for the words “Adjudication Officer” there shall be substituted the words “ Secretary of State ”.
7. In regulation 20(1B)(a) (special conditions for disablement benefit for pneumoconiosis, byssinosis and diffuse mesothelioma) for the words “on a reassessment or review of the extent of disablement” there shall be substituted the words “ on a reassessment of the extent of disablement or in consequence of an application for revision or supersession ”.
8. In regulation 22 (pneumoconiosis—effects of emphysema and chronic bronchitis)—
 - (a) in paragraph (2)(a), for the words from “that question” to the end of the sub-paragraph there shall be substituted the words “ that issue shall be determined by the Secretary of State ”;
 - (b) in paragraph (2)(b) for the words—
 - (i) “adjudicating medical authority or medical appeal tribunal, as the case may be” there shall be substituted the words “ Secretary of State or, as the case may be, appeal tribunal ”, and
 - (ii) for the word “question” there shall be substituted the word “ issue ”.
9. In regulation 23 (reduced earnings allowance—special provision for pneumoconiosis cases) for the words “a special medical board or a specially qualified adjudicating medical practitioner” there shall be substituted the words “ the Secretary of State ”.
10. For regulation 24 (special requirement for pneumoconiosis claimants in unscheduled occupation cases) there shall be substituted the following regulation—

“ Special requirement for pneumoconiosis claimants in unscheduled occupation cases

24.—(1) A claim for disablement benefit in respect of pneumoconiosis by a person in relation to whom the disease is prescribed by virtue of regulation 2(b)(ii) shall be referred by the Secretary of State to a medical practitioner for a report, unless the Secretary of State is satisfied on reasonable grounds that the claimant is not suffering or has not suffered from pneumoconiosis, in which case he may decide the claim without such a report.

(2) The provisions of paragraph (1) of this regulation shall apply to an appeal tribunal and a Commissioner as they apply to the Secretary of State.”

11. In regulation 25 (time for claiming benefit in respect of occupational deafness) in paragraph (2)(d)(ii) after the words “a medical board or a medical appeal tribunal” there shall be inserted the words “ or as the case may be the Secretary of State or an appeal tribunal. ”

12. In regulation 27 (further claims in respect of occupational deafness)—

(a) in paragraph (1)(b) and (c) for the words “an adjudicating medical authority” there shall be substituted the words “ the Secretary of State or an appeal tribunal ”;

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

“(2) A claim to be paid benefit by virtue of paragraph (1)(c) may be disallowed by the Secretary of State, an appeal tribunal or a Commissioner (“the determining authority”) without reference to a medical practitioner where the determining authority is satisfied by medical evidence that the claimant is not suffering from occupational deafness.”.

13. For regulation 30 (review of assessment for unforeseen aggravation in respect of occupational deafness) there shall be substituted the following regulation—

“ Supersession of a decision in respect of occupational deafness

30.—(1) The provisions of regulation 6 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 shall not apply to a decision of the Secretary of State in respect of occupational deafness until after the expiry of 5 years from the date of commencement of the period taken into account by that decision.

(2) The provisions of regulation 6 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999 shall not apply to an assessment of the extent of disablement in respect of occupational deafness which is less than 20 per cent.”.

14. For regulation 31 (leave of medical appeal tribunal to review assessment in certain cases), there shall be substituted the following regulation—

“ Requirement for leave of appeal tribunal

31. Subject to the provisions of regulation 30 and notwithstanding the provisions of regulation 6 of the Social Security and Child Support (Decisions and Appeals) Regulations 1999, a decision of a medical board, medical appeal tribunal, the Secretary of State or an appeal tribunal that a person is entitled to a life assessment in respect of occupational deafness, shall not be revised or superseded without leave of an appeal tribunal; but in the case of a provisional assessment in respect of occupational deafness no such leave shall be required.”.

15. For regulation 32 (no appeal against initial provisional assessment of disablement in respect of occupational deafness) there shall be substituted the following regulation—

“ No appeal against a decision of disablement in respect of occupational deafness

32. No appeal shall lie against an initial provisional assessment of the extent of disablement in respect of occupational deafness.”.

16. In regulation 34 (assessment of extent of disablement and rate of disablement benefit payable in respect of occupational deafness)—

(a) in paragraph (7)(a) and (b) for the words “reviewed or varied” there shall be substituted the words “ revised or superseded ”;

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

(b) in paragraph (7)(b)(ii) for the words “review or variation” there shall be substituted the words “revision or supersession”.

17. In regulation 35 (commencement date of period of assessment in respect of occupational deafness) the words “the provisions of section 108 and” shall be omitted.

18. In regulation 40(2) (conditions of suspension) for the words “A special medical board or specially qualified adjudicating medical practitioner” there shall be substituted the words “The Secretary of State”.

SCHEDULE 9

Article 4(9)

**MODIFICATION OF THE SOCIAL SECURITY
(CLAIMS AND PAYMENTS) REGULATIONS 1987**

F8

Textual Amendments

F8 Schs. 9-11 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

Modifications etc. (not altering text)

C2 Sch. 9 Sch. 10 modified (7.4.2003 for specified purposes) by The Child Benefit and Guardian’s Allowance (Administration) Regulations 2003 (S.I. 2003/492), regs. 1, 43, **Sch. 3 Pt. 1** (with regs. 1(2), 44)

F8

Textual Amendments

F8 Schs. 9-11 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

F8

Textual Amendments

F8 Schs. 9-11 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

F8

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

Textual Amendments

F8 Schs. 9-11 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

F8

Textual Amendments

F8 Schs. 9-11 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

SCHEDULE 10

Article 4(10)

MODIFICATION OF THE SOCIAL SECURITY (PAYMENTS ON ACCOUNT, OVERPAYMENTS AND RECOVERY) REGULATIONS 1988

F8

Textual Amendments

F8 Schs. 9-11 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

Modifications etc. (not altering text)

C2 Sch. 9 Sch. 10 modified (7.4.2003 for specified purposes) by The Child Benefit and Guardian's Allowance (Administration) Regulations 2003 (S.I. 2003/492), regs. 1, 43, **Sch. 3 Pt. 1** (with regs. 1(2), 44)

F8

Textual Amendments

F8 Schs. 9-11 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

F8

Textual Amendments

F8 Schs. 9-11 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

F8
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Textual Amendments
F8 Schs. 9-11 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

F8
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Textual Amendments
F8 Schs. 9-11 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

SCHEDULE 11

Article 4(11)

MODIFICATION OF THE SOCIAL SECURITY BENEFIT (DEPENDENCY) REGULATIONS 1977

F8 ...

Textual Amendments
F8 Schs. 9-11 revoked (29.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 20 para. 1(a)** (with reg. 3(1)(b), Schs. 21-23)

SCHEDULE 12

Article 5

TRANSITIONAL PROVISIONS

- 1.—(1) In this Schedule, unless the context otherwise requires—
 - “adjudicating authority” means an adjudication officer, an adjudicating medical practitioner, a specially qualified adjudicating medical practitioner, a medical board or a special medical board;
 - “appellate authority” means a medical appeal tribunal or a social security appeal tribunal;
 - “the Adjudication Regulations” means the Social Security (Adjudication) Regulations 1995 M24,
 - “decision”, in relation to any period before 5th July 1999, includes a determination, and “decided” is to be construed accordingly;
 - “legally qualified panel member” has the same meaning as in the Regulations;

“the Regulations” means the Social Security and Child Support (Decisions and Appeals) Regulations 1999^{M25}; and

“relevant benefit” means any of the benefits mentioned in article 2(1)(b)(i) to (iii) of this Order.

- (2) Any reference in paragraphs 6 to 12 of this Schedule to—
- (a) an appeal to an appellate authority is to be construed as a reference to an appeal in relation to the decision of an adjudicating authority as respects a relevant benefit; and
 - (b) a decision of an appellate authority is to be construed as a reference to a decision of such an appeal.

Marginal Citations

M24 S.I. 1995/1801; regulations 3 and 10 have been amended by S.I. 1996/182 and 2450.

M25 S.I. 1999/991, as amended by S.I. 1999/1466, 1623, 1662 (C.47) and 1670.

2. Any matter which before 5th July 1999 fell to be decided in relation to a relevant benefit by an adjudicating authority but which has not been decided immediately before that date shall be decided on or after that date by the Secretary of State under paragraph (a) or, as the case may be, paragraph (c) of section 8(1).

3.—(1) Any application duly made before 5th July 1999 for a review of a decision of an adjudicating authority in relation to a relevant benefit which was not decided before that date shall on or after that date be treated as an application to the Secretary of State—

- (a) where the application was made within one month of the date on which the applicant was notified of the decision, or within such longer period as may be allowed under sub-paragraph (2) below, for a revision of that decision under section 9; or
- (b) in any other case, for a decision under section 10 to supersede that decision.

(2) Subject to sub-paragraphs (3) and (4) below, the period of one month specified in sub-paragraph (1)(a) above may be extended where an application for such an extension is made before 5th August 2000 by a claimant or a person acting on his behalf containing—

- (a) the grounds on which an extension of time is sought; and
- (b) sufficient details of the decision to enable it to be identified.

(3) An application for an extension of time shall not be granted under sub-paragraph (2) above unless the Secretary of State is satisfied that—

- (a) it is reasonable to grant that application;
- (b) the application for review has merit; and
- (c) special circumstances are relevant to the application for extension of time as a result of which it was not practicable for the application for review to be made within one month of the date of the adjudicating authority’s decision being notified to the claimant.

(4) In deciding whether to grant an extension of time no account shall be taken of the following factors—

- (a) that the claimant or any person acting for him misunderstood or was unaware of the law applicable to his case (including misunderstanding or being unaware of the period specified in sub-paragraph (1)(a) above); or
- (b) that a Social Security Commissioner or a court has taken a different view of the law from that previously understood and applied by the adjudicating authority.

(5) Where, by virtue of sub-paragraph (1)(b) above—

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

- (a) a decision is made under section 10 which is advantageous to the applicant; and
- (b) the same decision could have been made by the adjudicating authority prior to 5th July 1999 on the application for review,

that decision shall take effect from the date from which it would have taken effect had the decision been so made.

4.—(1) Where, before 5th July 1999, a decision has been made by an adjudicating authority in relation to a relevant benefit, that decision shall be treated on or after that date as a decision of the Secretary of State under paragraph (a) or, as the case may be, paragraph (c) of section 8(1).

(2) Where, before that date, any person was required to give notice to the claimant of that decision of the adjudicating authority, and such notice has not been given to the claimant before that date, the Secretary of State shall on or after that date give notice to the claimant of that decision.

5.—(1) Where—

- (a) a decision of an adjudicating authority in relation to a relevant benefit has been made before 5th July 1999; and
- (b) the period within which an appeal may be made in relation to that decision has not expired before that date,

regulation 3 of the Adjudication Regulations as it relates to the period within which an appeal may be made, or any extension of that period, shall, notwithstanding regulation 59 of the Regulations, continue to have effect, subject to the modifications in sub-paragraph (2) below, with respect to any appeal to an appeal tribunal on or after that date in relation to that decision.

(2) The modifications referred to in sub-paragraph (1) above are—

- (a) as if references to a chairman or to a person considering the application were references to a legally qualified panel member;
- (b) as if references to a tribunal were references to an appeal tribunal constituted under section 7; and
- (c) as if in paragraph (3E) for the words from “6 years” to the end of the paragraph there were substituted the words “ 5th August 2000 ”.

6. An appeal to an appellate authority which was duly made before 5th July 1999 and which has not been determined before that date shall, without prejudice to Chapter III of Part V of the Regulations, be treated on or after that date as an appeal duly made to an appeal tribunal in relation to a decision of the Secretary of State under section 8.

7.—(1) This paragraph applies where a clerk to an appellate authority has before 5th July 1999 given a direction under regulation 22(1) of the Adjudication Regulations in connection with an appeal to that authority, and the notification mentioned in paragraph (1A) of that regulation 22 has not been received by the clerk before that date.

(2) A notification in response to such a direction given under that regulation 22(1) shall be in writing and shall be made within 14 days of receipt of the direction or within such other period as the clerk to an appeal tribunal may direct.

(3) An appeal may be struck out by the clerk to an appeal tribunal where the notification referred to in sub-paragraph (2) above is not received within the period specified in that sub-paragraph.

(4) An appeal which has been struck out in accordance with sub-paragraph (3) above shall be treated for the purpose of reinstatement as if it had been struck out under regulation 46 of the Regulations.

(5) An oral hearing of the appeal shall be held where—

- (a) a notification is received by the clerk to the appeal tribunal under sub-paragraph (2) above; or
- (b) the chairman or, in the case of an appeal tribunal which has only one member, that member of the appeal tribunal is satisfied that such a hearing is necessary to enable the appeal tribunal to reach a decision.

8. Where an appeal to an appellate authority has been struck out under regulation 7 of the Adjudication Regulations, a legally qualified panel member may on or after 5th July 1999, on an application made by any party to the proceedings not later than three months from the date of the order under paragraph (1) of that regulation, reinstate the appeal if he is satisfied that—

- (a) the applicant did not receive a notice under paragraph (2) of that regulation; and
- (b) the conditions in paragraph (2A) of that regulation were not satisfied,

and the appeal shall then be treated as an appeal to an appeal tribunal in relation to a decision of the Secretary of State under section 8.

9. An appeal tribunal shall completely rehear any appeal to an appellate authority which stands adjourned immediately before 5th July 1999.

10. A copy of a statement of—

- (a) the reasons for a decision of an appellate authority; and
- (b) its findings on questions of fact material thereto,

shall be supplied by the Secretary of State to each party to the proceedings before that authority, if requested by any such party within 21 days of the date on which notification of that decision was given or sent.

11.—(1) Subject to sub-paragraph (2) below, any decision of an appellate authority shall, for the purposes of sections 13 and 14, be treated as a decision of an appeal tribunal.

(2) Where sub-paragraph (1) above applies, any application for leave to appeal which is made for the purposes of section 14(10)(a) shall be made no later than 3 months after the date on which a copy of the statement of the decision of the appellate authority was given or sent to the applicant.

12.—(1) Subject to sub-paragraph (3) below, regulation 10 of the Adjudication Regulations, and regulation 3 of those Regulations in so far as it relates to that regulation 10, shall, notwithstanding regulation 59 of the Regulations, continue to have effect on and after 5th July 1999, subject to the modifications specified in sub-paragraph (2) below, in relation to any application to set aside a decision of an appellate authority.

(2) The modifications referred to in sub-paragraph (1) above are—

- (a) as if, in that regulation 3, or in paragraph (1) of that regulation 10 any reference to the adjudicating authority which gave the decision or to an authority of like status were a reference to an appeal tribunal constituted under section 7; and
- (b) as if, in that regulation 3, for the reference to a chairman there were substituted a reference to a legally qualified panel member.

(3) Paragraph (1) above shall not apply in any case where an application to set aside a decision of an appellate authority is made after 5th August 2000.

13. Where, immediately before 5th July 1999, payment of a relevant benefit was suspended or withheld by virtue of any provision of Part V of the Social Security (Claims and Payments) Regulations 1987 ^{M26} (suspension and extinguishment), the provisions of Chapter I of Part III of the Regulations (suspension and termination) shall, on or after that date, apply with respect to that suspension or withholding as if it were a suspension imposed by virtue of those provisions.

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

Marginal Citations

M26 S.I. 1987/1968; relevant amendments to Part V were made by S.I. 1992/247, 1993/2113, 1994/2319 and 1996/1460 and 2306.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the coming into force on 5th July 1999 of further provisions of the Social Security Act 1998 ("the Act") so as to introduce on that date—as respects guardian's allowance, industrial injuries benefits, child benefit and issues arising under the Pension Schemes Act 1993—the new arrangements for decision-making and appeals provided for in Chapter II of Part I of the Act.

The provisions brought into force by article 2 and Schedule 1 relate in particular to the transfer of decision-making functions from adjudication officers to the Secretary of State, and from social security appeal tribunals and medical appeal tribunals to appeal tribunals constituted under Chapter I of Part I of the Act, and provide for the exercise of such functions under the provisions of Chapter II of that Part (which replace the adjudication arrangements currently in force under Part II of the Social Security Administration Act 1992) ("the Administration Act").

Savings are made as respects provisions of the Administration Act in relation to certain decisions taken by the Secretary of State before 1st April 1999, and the destination of fees paid in connection with certain medical examinations (article 3).

This Order makes consequential amendments in other statutory instruments in so far as they are concerned with, or make reference to, existing arrangements for decision making and appeals specifically in relation to guardian's allowance, child benefit or industrial injuries benefits (article 4 and Schedules 2 to 4 and 6 to 8). Certain other provisions (for example, those which relate to claims and payments generally) are modified in relation to those benefits pending their amendment once Chapter II of Part I of the Act is fully in force in relation to all benefits (article 4 and Schedules 5, 9, 10 and 11).

This Order also makes transitional provision, in particular as to the manner in which matters which, immediately before 5th July 1999, are awaiting determination under the existing arrangements for decision making and appeals are to be dealt with on or after that date (article 5 and Schedule 12).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions have been brought into force by the Social Security Act 1998 (Commencement No. 1) Order 1998 (S.I. 1998/2209), the Social Security Act 1998 (Commencement No. 2) Order 1998 (S.I. 1998/2780), the Social Security Act 1998 (Commencement No. 3) Order 1999 (S.I. 1999/418), the Social Security Act 1998 (Commencement No. 4) Order 1999 (S.I. 1999/526), the Social Security Act 1998 (Commencement No. 5) Order 1999 (S.I. 1999/528), the Social Security Act 1998 (Commencement No. 6) Order 1999 (S.I. 1999/1055) and the Social Security Act 1998 (Commencement No. 7 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/1510).

<i>Provision of the Act</i>	<i>Date of Commencement</i>	<i>S.I. Number</i>
Section 1(c)	1st June 1999	1999/1510
Section 2 (except section 2(2)(a))	8th September 1998	1998/2209
Section 3	8th September 1998	1998/2209
Section 4(1)(b) and (2)(b)	1st June 1999	1999/1510
Section 5	1st June 1999	1999/1510
Sections 6 and 7	4th March 1999 and 1st June 1999	1999/528 and 1999/1510
M27	4th March 1999	1999/528
*Section 9(1), (4) and (6)		
*Section 10(3) and (6)	4th March 1999	1999/528
*Section 11(1)	4th March 1999	1999/528
*Section 12(1) in so far as it relates to paragraph 9 of Schedule 2 and paragraphs 1, 4 and 9 of Schedule 3	4th March 1999	1999/528
*Section 12(2), (3), (6) and (7)	4th March 1999	1999/528
*Section 14(3), (10) and (11)	4th March 1999	1999/528
*Section 14(12) in so far as it relates to paragraphs 6 and 8 of Schedule 4	4th March 1999	1999/528
*Section 15(2) and (3)	4th March 1999	1999/528
*Section 16(1) to (3) and (9) and Schedule 5	4th March 1999	1999/528
Section 16(4) and (5)	8th September 1998 and 6th April 1999	1998/2209
*Section 17	4th March 1999	1999/528
*Section 18(1)	4th March 1999	1999/528
*Sections 20 to 24	4th March 1999	1999/528
*Section 25(3)(b) and (5)(c)	4th March 1999	1999/528
*Section 26(6)(c)	4th March 1999	1999/528
Section 26(8)	1st June 1999	1999/1510
*Section 28	4th March 1999	1999/528
*Section 31(2) and (3)	4th March 1999	1999/528
*Section 38(1)(a) and (3)	4th March 1999	1999/528
Section 40	16th November 1998 and 7th December 1998	1998/2780

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

Sections 41 to 44	4th March 1999 and 1st June 1999	1999/528 and 1999/1510
M28	4th March 1999	1999/528
*Section 45 in so far as it inserts section 3A(1), (3) and (4) into the Vaccine Damage Payments Act 1979		
*Section 46 in so far as it substitutes section 4(2) and (3) of the Vaccine Damage Payments Act 1979	4th March 1999	1999/528
*Section 47 in so far as it inserts section 7A into the Vaccine Damage Payments Act 1979	4th March 1999	1999/528
Section 48	8th September 1998	1998/2209
Section 49	8th September 1998	1998/2209
Section 50(1) (partially)	8th September 1998	1998/2209
Section 51	23rd February 1999 and 6th April 1999	1999/418
Section 52	8th September 1998	1998/2209
Section 53	8th September 1998 and 6th April 1999	1998/2209
Section 54	4th March 1999 and 6th April 1999	1999/526
Section 55	8th September 1998	1998/2209
Section 56	4th March 1999 and 6th April 1999	1999/526
Section 57	4th March 1999 and 6th April 1999	1999/526
Section 59	8th September 1998	1998/2209
Section 60	4th March 1999 and 6th April 1999	1999/526
Section 61 (partially)	4th March 1999 and 6th April 1999	1999/526
Section 62	6th April 1999	1999/526
Section 63	4th March 1999 and 6th April 1999	1999/526
Section 64	6th April 1999	1999/526
Section 65	8th September 1998 and 6th April 1999	1998/2209
Section 68	8th September 1998	1998/2209

Sections 70 and 71	5th April 1999	1999/1055
Section 73	6th April 1999	1998/2209
Section 74	4th March 1999	1999/528
Section 75	5th October 1998	1998/2209
Section 76	16th November 1998	1998/2780
*Schedule 2, paragraph 9	4th March 1999	1999/528
*Schedule 3, paragraphs 1, 4 and 9	4th March 1999	1999/528
*Schedule 4, paragraphs 6 and 8	4th March 1999	1999/528
Schedule 7 in the respects specified below and section 86(1) in so far as it relates to them—		
paragraphs 1 and 2	1st June 1999	1999/1510
paragraph 4(2) (partially) and (3)	1st June 1999	1999/1510
*paragraph 8	4th March 1999	1999/528
*paragraph 9	4th March 1999	1999/528
paragraphs 12 to 14	6th April 1999	1999/526
paragraph 16	6th April 1999	1999/418
paragraphs 18 to 26	1st June 1999	1999/1510
paragraph 27	8th September 1998 and 1st June 1999	1998/2209 and 1999/1510
paragraphs 28 to 34	1st June 1999	1999/1510
paragraph 35	4th March 1999 and 1st June 1999	1999/528 and 1999/1510
paragraphs 36 to 38	1st June 1999	1999/1510
paragraph 39	4th March 1999 and 1st June 1999	1999/528 and 1999/1510
paragraph 40	4th March 1999 and 1st June 1999	1999/528 and 1999/1510
paragraphs 41 and 42	1st June 1999	1999/1510
paragraphs 43 and 44	4th March 1999 and 1st June 1999	1999/528 and 1999/1510
paragraph 45	1st June 1999	1999/1510
paragraph 46	16th November 1998, 4th March 1999 and 1st June 1999	1998/2780, 1999/528 and 1999/1510
paragraph 47 (partially)	1st June 1999	1999/1510
paragraph 48	1st June 1999	1999/1510

Changes to legislation: There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999. (See end of Document for details)

paragraph 49	8th September 1998 and 1st June 1999	1998/2209 and 1999/1510
paragraphs 50 and 51	1st June 1999	1999/1510
paragraphs 52 to 54	4th March 1999 and 1st June 1999	1999/528 and 1999/1510
paragraph 56	8th September 1998 and 6th April 1999	1998/2209
paragraph 57	6th April 1999	1998/2209
paragraph 58(1)	6th April 1999	1999/418
paragraph 58(2)	6th April 1999	1998/2209
paragraphs 59 to 61	6th April 1999	1999/418
paragraph 71(b), (c) and (e)	6th April 1999	1999/418
paragraph 71(d)	8th September 1998 and 6th April 1999	1998/2209
paragraph 72(3) and (4)	5th April 1999	1999/1055
paragraphs 74 and 75	6th April 1999	1999/418
paragraph 77	8th September 1998 and 6th April 1999	1998/2209 and 1999/418
paragraph 85	6th April 1999	1999/526
paragraph 86	6th April 1999	1998/2209 and 1999/526
paragraph 87	6th April 1999	1999/526
paragraph 90	6th April 1999	1999/418
paragraph 91	8th September 1998 and 6th April 1999	1998/2209
paragraphs 92 to 94	6th April 1999	1999/418
paragraph 99	8th September 1998 and 6th April 1999	1998/2209, 1999/418 and 1999/526
paragraph 100	6th April 1999	1998/2209 and 1999/526
paragraph 104	4th March 1999	1999/528
paragraph 110(1)(a)	8th September 1998 and 6th April 1999	1998/2209
paragraph 110(1)(b)	6th April 1999	1999/418
paragraph 114	8th September 1998 and 6th April 1999	1998/2209
paragraph 118 (partially)	1st June 1999	1999/1510
paragraph 121(1)	4th March 1999 and 1st June 1999	1999/528 and 1999/1510
*paragraph 121(2)	4th March 1999	1999/528

paragraphs 122, 123(1)(b) and 124(1)(b)	1st June 1999	1999/1510
paragraphs 123(2) and 124(2) (partially)	1st June 1999	1999/1510
paragraphs 126 to 128	6th April 1999	1999/418
*paragraph 131	4th March 1999	1999/528
paragraph 133	6th April 1999	1999/418
paragraph 149(1)	4th March 1999	1999/528
Section 86(2) and Schedule 8 (partially)	8th September 1998, 5th and 6th April 1999 and 1st June 1999	1998/2209, 1999/418, 1999/526, 1999/1055 and 1999/1510

Changes to legislation:

There are currently no known outstanding effects for the The Social Security Act 1998 (Commencement No. 8, and Savings and Consequential and Transitional Provisions) Order 1999.