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STATUTORY INSTRUMENTS

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**1999 No. 991**

**The Social Security and Child Support  
(Decisions and Appeals) Regulations 1999**

**PART II**

**<sup>F1</sup>REVISIONS, SUPERSESIONS AND OTHER MATTERS  
SOCIAL SECURITY [<sup>F1</sup>AND CHILD SUPPORT]**

**CHAPTER III**

**OTHER MATTERS**

**Certificates of recoverable benefits**

**9.** A certificate of recoverable benefits may be reviewed under section 10 of the 1997 Act <sup>M1</sup> where the Secretary of State is satisfied that—

- (a) a mistake (whether in computation of the amount specified or otherwise) occurred in the preparation of the certificate;
- (b) the benefit recovered from a person who makes a compensation payment (as defined in section 1 of the 1997 Act) is in excess of the amount due to the Secretary of State;
- (c) incorrect or insufficient information was supplied to the Secretary of State by the person who applied for the certificate and in consequence the amount of benefit specified in the certificate was less than it would have been had the information supplied been correct or sufficient; or
- (d) a ground for appeal is satisfied under section 11 of the 1997 Act <sup>M2</sup>.

**Marginal Citations**

**M1** Section 10 was amended by paragraph 149 of Schedule 7 to the Social Security Act 1998.

**M2** Section 11 was amended by paragraph 150 of Schedule 7 to the Social Security Act 1998.

**[<sup>F1</sup>Review of certificates**

**9ZA.—**(1) A certificate may be reviewed under section 10 of the 1997 Act where the Secretary of State is satisfied that—

- (a) a mistake (whether in the computation of the amount specified or otherwise) occurred in the preparation of the certificate;
- (b) the lump sum payment recovered from a compensator who makes a compensation payment (as defined in section 1A(5) of the 1997 Act) is in excess of the amount due to the Secretary of State;

- (c) incorrect or insufficient information was supplied to the Secretary of State by the compensator who applied for the certificate and in consequence the amount of lump sum payment specified in the certificate was less than it would have been had the information supplied been correct or sufficient;
  - (d) a ground for appeal is satisfied under section 11 of the 1997 Act or an appeal has been made under that section; or
  - (e) a certificate has been issued and, for any reason, a recoverable lump sum payment was not included in that certificate.
- (2) In this regulation and regulations 1(3) in paragraph (b) of the definition of “party to the proceedings”, [F29 [F3 and 33]], where applicable—
- (a) any reference to the 1997 Act is to be construed so as to include a reference to that Act as applied by regulation 2 of the Lump Sum Payments Regulations and, where applicable, as modified by Schedule 1 to those Regulations;
  - (b) “certificate” means a certificate of recoverable lump sum payments, including where any of the amounts is nil;
  - (c) “lump sum payment” is a payment to which section 1A(2) of the 1997 Act applies;
  - (d) “P” is to be construed in accordance with regulations 4(1)(a)(i) and 5 of the Lump Sum Payments Regulations. ]

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| <p><b>F1</b> Reg. 9ZA inserted (1.10.2008 as amended by S.I. 2008/2365 reg. 6(4)) by <a href="#">Social Security (Recovery of Benefits) (Lump Sum Payments) Regulations 2008 (S.I. 2008/1596)</a>, reg. 1(1), <b>Sch. 2 para. 1(b)</b> (with reg. 6)(as amended by S.I. 2008/2365 reg. 6(4))</p> <p><b>F2</b> Words in reg. 9ZA(2) substituted (3.11.2008) by <a href="#">Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683)</a>, art. 1, <b>Sch. 1 para. 107</b></p> <p><b>F3</b> Words in reg. 9ZA(2) omitted (28.10.2013) by virtue of <a href="#">The Social Security, Child Support, Vaccine Damage and Other Payments (Decisions and Appeals) (Amendment) Regulations 2013 (S.I. 2013/2380)</a>, regs. 1(2), <b>4(10)(a)</b> (with reg. 8)</p> |
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#### [F4] Consideration of review before appeal

**9ZB.**—(1) This regulation applies in a case where—

- (a) the Secretary of State has issued a certificate of recoverable benefits or certificate of recoverable lump sum payments; and
- (b) that certificate is accompanied by a notice to the effect that there is a right of appeal in relation to the certificate only if the Secretary of State has considered an application for review of the certificate.

(2) In a case to which this regulation applies, a person has a right of appeal under section 11 of the 1997 Act against the certificate only if the Secretary of State has considered an application for review of the certificate under section 10 of that Act.]

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| <p><b>F4</b> Reg. 9ZB inserted (28.10.2013) by <a href="#">The Social Security, Child Support, Vaccine Damage and Other Payments (Decisions and Appeals) (Amendment) Regulations 2013 (S.I. 2013/2380)</a>, regs. 1(2), <b>4(6)</b></p> |
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#### [F5] Correction of accidental errors

**9A.**—(1) Accidental errors in a decision of the Secretary of State or an officer of the Board under a relevant enactment within the meaning of section 28(3), or in any record of such a decision, may be corrected by the Secretary of State or an officer of the Board, as the case may be, at any time.

(2) A correction made to, or to the record of, a decision shall be deemed to be part of the decision, or of that record, and the Secretary of State or an officer of the Board shall give a written notice of the correction as soon as practicable to the claimant.

(3) In calculating the time within which an application can be made under regulation 3(1)(b) for a decision to be revised <sup>F6</sup> ... there shall be disregarded any day falling before the day on which notice was given of a correction of the decision or to the record thereof under paragraph (2).]

**F5** Reg. 9A inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), 4

**F6** Words in reg. 9A(3) omitted (3.11.2008) by virtue of [Tribunals, Courts and Enforcement Act 2007 \(Transitional and Consequential Provisions\) Order 2008 \(S.I. 2008/2683\)](#), art. 1, **Sch. 1 para. 108**

### [<sup>F7</sup>Effect of determination as to capacity or capability for work

**10.**—(1) This regulation applies to a determination whether a person—

- (a) is capable or incapable of work;
- (b) is to be treated as capable or incapable of work;
- (c) has or does not have limited capability for work; or
- (d) is to be treated as having or not having limited capability for work.

(2) A determination (including a determination made following a change of circumstances) as set out in paragraph (1) which is embodied in or necessary to a decision under Chapter II of Part I of the Act or on which such a decision is based shall be conclusive for the purposes of any further decision.]

**F7** Reg. 10 substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), 36

### Secretary of State to determine certain matters

**11.** Where, in relation to a determination for any purpose to which Part XIII A of the Contributions and Benefits Act [<sup>F8</sup>or Part 1 of the Welfare Reform Act] applies, an issue arises as to—

- (a) whether a person is, or is to be treated as, capable or incapable of work in respect of any period; or
- [<sup>F9</sup>(aa) whether a person is, or is to be treated as, having or not having limited capability for work; or]
- (b) whether a person is terminally ill,

that issue shall be determined by the Secretary of State, notwithstanding that other matters fall to be determined by another authority.

**F8** Words in reg. 11 inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), 37(a)

**F9** Reg. 11(aa) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), 37(b)

**[<sup>F10</sup>Issues for decision by officers of Inland Revenue**

**11A.**—(1) Where, on consideration of any claim or other matter, it appears to the Secretary of State that an issue arises which, by virtue of section 8 of the Transfer Act, falls to be decided by an officer of the Board, he shall refer that issue to the Board.

(2) Where—

- (a) the Secretary of State has decided any claim or other matter on an assumption of facts—
  - (i) as to which there appeared to him to be no dispute, but
  - (ii) concerning which, had an issue arisen, that issue would have fallen, by virtue of section 8 of the Transfer Act, to be decided by an officer of the Board; and
- (b) an application for revision or an application for supersession [<sup>F11</sup>or an appeal] is made in relation to the decision of that claim or other matter; and
- (c) it appears to the Secretary of State on [<sup>F12</sup>receipt of the application or appeal] that such an issue arises,

he shall refer that issue to the Board.

(3) Pending the final decision of any issue which has been referred to the Board in accordance with paragraph (1) or (2) above, the Secretary of State may—

- (a) determine any other issue arising on consideration of the claim or other matter or, as the case may be, of the application,
- (b) seek a preliminary opinion of the Board on the issue referred and decide the claim or other matter or, as the case may be, the application in accordance with that opinion on that issue; or
- (c) defer making any decision on the claim or other matter or, as the case may be, the application.

(4) On receipt by the Secretary of State of the final decision of an issue which has been referred to the Board in accordance with paragraph (1) or (2) above, the Secretary of State shall—

- (a) in a case to which paragraph (3)(b) above applies—
  - (i) consider whether the decision ought to be revised under section 9 or superseded under section 10, and
  - (ii) if so, revise it, or, as the case may be, make a further decision which supersedes it; or
- (b) in a case to which paragraph (3)(a) or (c) above applies, decide the claim or other matter or, as the case may be, the application,

in accordance with the final decision of the issue so referred.

(5) In paragraphs (3) and (4) above “final decision” means the decision of an officer of the Board under section 8 of the Transfer Act or the determination of any appeal in relation to that decision.]

- F10** Reg. 11A inserted (5.7.1999) by [The Social Security and Child Support \(Decisions and Appeals\) Amendment \(No. 3\) Regulations 1999 \(S.I. 1999/1670\)](#), regs. 1(1), **2(3)**
- F11** Words in reg. 11A(2)(b) inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **5(a)**
- F12** Words in reg. 11A(2)(c) substituted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#), regs. 1(1), **5(b)**

## Decision of the Secretary of State relating to industrial injuries benefit

**12.**—(1) This regulation applies where, for the purpose of a decision of the Secretary of State relating to a claim for industrial injuries benefit under Part V of the Contributions and Benefits Act an issue to be decided is—

- (a) the extent of a personal injury for the purposes of section 94 of that Act;
- (b) whether the claimant has a disease prescribed for the purposes of section 108 of that Act or the extent of any disablement resulting from such a disease; or
- (c) whether the claimant has a disablement for the purposes of section 103 of that Act or the extent of any such disablement.

(2) In connection with making a decision to which this regulation applies, the Secretary of State may refer an issue, together with any relevant evidence or information available to him, including any evidence or information provided by or on behalf of the claimant, to a <sup>F13</sup>health care professional approved by the Secretary of State] who has experience in such of the issues specified in paragraph (1) as are relevant to the decision, for such report as appears to the Secretary of State to be necessary for the purpose of providing him with information for use in making the decision.

(3) In making a decision to which this regulation applies, the Secretary of State shall have regard to (among other factors)—

- (a) all relevant medical reports provided to him in connection with that decision; and
- (b) the experience, in such of the issues specified in paragraph (1) as are relevant to the decision, of any <sup>F14</sup>health care professional] who has provided a report, including a <sup>F14</sup>health care professional approved by the Secretary of State] who has provided a report following an examination required by the Secretary of State under section 19.

**F13** Words in reg. 12(2) substituted (3.7.2007) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2007 \(S.I. 2007/1626\)](#), regs. 1, **4(2)(a)**

**F14** Words in reg. 12(3)(b) substituted (3.7.2007) by [Social Security \(Miscellaneous Amendments\) \(No.2\) Regulations 2007 \(S.I. 2007/1626\)](#), regs. 1, **4(2)(b)**

## <sup>F15</sup>Recrudescence of a prescribed disease

**12A.**—(1) This regulation applies to a decision made under sections 108 to 110 of the Contributions and Benefits Act where a disease is subsequently treated as a recrudescence under regulation 7 of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985.

(2) Where this regulation applies Chapter II of Part I of the Act shall apply as if section 8(2) did not apply.]

**F15** Reg. 12A inserted (19.6.2000) by [The Social Security and Child Support \(Miscellaneous Amendments\) Regulations 2000 \(S.I. 2000/1596\)](#), regs. 1(1), **19**

## Income support and social fund determinations on incomplete evidence

**13.**—<sup>F16</sup>(1) Where, for the purpose of a decision under section 8 (decisions by Secretary of State) or 10 (decisions superseding earlier decisions)—

- (a) a determination falls to be made by the Secretary of State in respect of a claimant of income support, state pension credit or employment and support allowance as to—
  - (i) the amount to be included in an owner-occupier loan payment under regulation 10 of the Loans for Mortgage Interest Regulations (calculation of each loan payment); or

(ii) what housing costs are to be included in the claimant's applicable amount (in the case of income support or employment and support allowance) or the claimant's appropriate minimum guarantee (in the case of state pension credit); and

(b) it appears to the Secretary of State that the Secretary of State is not in possession of all of the evidence or information which is relevant for the purposes of such a determination, the Secretary of State shall make the determination on the assumption that the amounts to be included in an owner-occupier loan payment, the claimant's applicable amount, or the claimant's appropriate minimum guarantee, as the case may be, are those that can be immediately determined.]

(2) Where, for the purpose of a decision under section 8 or 10—

(a) a determination falls to be made by the Secretary of State as to whether—

- (i) in relation to any person, the applicable amount falls to be reduced or disregarded to any extent by virtue of section 126(3) of the Contributions and Benefits Act (persons affected by trade disputes);
- (ii) for the purposes of regulation 12 of the Income Support Regulations, a person is by virtue of that regulation to be treated as receiving relevant education; <sup>F17</sup> ...
- (iii) in relation to any claimant, the applicable amount includes severe disability premium by virtue of regulation 17(1)(d) or 18(1)(e), and paragraph 13 of Schedule 2 to, the Income Support Regulations; [<sup>F18</sup>or
- (iv) in relation to any claimant, the applicable amount includes the severe disability premium by virtue of regulation 67(1) or 68(1) of, and paragraph 6 of Schedule 4 to, the Employment and Support Allowance Regulations ; and]

(b) it appears to the Secretary of State that he is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.

[<sup>F19</sup>(3) Where, for the purposes of a decision under section 8 or 10—

- (a) a determination falls to be made by the Secretary of State as to whether a claimant's appropriate minimum guarantee includes an additional amount in accordance with regulation 6(4) of, and paragraph 1 of Schedule I to, the State Pension Credit Regulations ; and
- (b) it appears to the Secretary of State that he is not in possession of all the evidence or information which is relevant for the purpose of such a determination,

he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.]

**F16** Reg. 13(1) substituted by S.I. 2017/725, Sch. 5 para. 11(4) (as inserted) (6.4.2018) by [The Loans for Mortgage Interest and Social Fund Maternity Grant \(Amendment\) Regulations 2018 \(S.I. 2018/307\)](#), regs. 1(2), **2(18)(e)**

**F17** Word in reg. 13(2)(a)(ii) omitted (27.7.2008) by virtue of [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **38(b)(i)**

**F18** Reg. 13(2)(a)(iv) and word substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **38(b)(ii)**

**F19** Reg. 13(3) added (7.4.2003) by [State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(a), **19(b)**

**[<sup>F20</sup>Retirement pension after period of deferment**

**13A.**—(1) This regulation applies where—

- (a) a person claims a Category A or Category B retirement pension, shared additional pension or, as the case may be, graduated retirement benefit;
- (b) an election is required by, as the case may be—
  - (i) paragraph A1 or 3C of Schedule 5 to the Contributions and Benefits Act (pension increase or lump sum where entitlement to retirement pension is deferred);
  - (ii) paragraph 1 of Schedule 5A to that Act (pension increase or lump sum where entitlement to shared additional pension is deferred); or, as the case may be,
  - (iii) paragraph 12 or 17 of Schedule 1 to the Graduated Retirement Benefit Regulations (further provisions replacing section 36(4) of the National Insurance Act 1965: increases of graduated retirement benefit and lump sums); and
- (c) no election is made when the claim is made.

(2) In the circumstances specified in paragraph (1) the Secretary of State may decide the claim before any election is made, or is treated as made, for an increase or lump sum.

(3) When an election is made, or is treated as made, the Secretary of State shall revise the decision which he made in pursuance of paragraph (2).]

**F20** Reg. 13A inserted (6.4.2006) by [Social Security \(Deferral of Retirement Pensions, Shared Additional Pension and Graduated Retirement Benefit\) \(Miscellaneous Provisions\) Regulations 2005 \(S.I. 2005/2677\)](#), regs. 1(1), **9(6)**

**[<sup>F21</sup>State pension under Part 1 of the Pensions Act 2014 after period of deferment**

**13B.**—(1) This regulation applies where—

- (a) a person claims a state pension under Part 1 of the Pensions Act 2014;
- (b) the person may make a choice under—
  - (i) section 8(2) of the Pensions Act 2014; or
  - (ii) Regulations made under section 10 of that Act which make provision corresponding or similar to section 8(2); and
- (c) the person does not make such a choice when the claim is made.

(2) The Secretary of State may decide the claim before paragraph (4) applies.

(3) The Secretary of State may revise a decision under paragraph (2) where paragraph (4) applies.

(4) This paragraph applies where the person—

- (a) makes a choice mentioned in paragraph (1)(b); or
- (b) becomes entitled to a lump sum under section 8(4) of the Pensions Act 2014, or under Regulations made under section 10 of that Act which make provision corresponding or similar to section 8(4), because the person has failed to choose within the period mentioned in section 8(3).]

**F21** [Reg. 13B](#) inserted (6.4.2016 coming into force in accordance with art. 1(2)(b)) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **18(7)**

### Effect of alteration in the component rates of income support and jobseeker's allowance

14.—(1) Section 159 of the Administration Act (effect of alteration in the component rates of income support) shall not apply to any award of income support in force in favour of a person where there is applicable to that person—

- (a) any amount determined in accordance with regulation 17(2) to (7) of the Income Support Regulations; or
- (b) any protected sum determined in accordance with Schedule 3A or 3B of those Regulations<sup>M3</sup>; or
- (c) any transitional addition, personal expenses addition or special transitional addition applicable under Part II of the Income Support (Transitional) Regulations 1987<sup>M4</sup> (transitional protection).

(2) Where section 159 of the Administration Act does not apply to an award of income support by virtue of paragraph (1), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made by an order under section 150 of the Administration Act.

(3) Section 159A of the Administration Act<sup>M5</sup> (effect of alterations in the component rates of jobseeker's allowance) shall not apply to any award of a jobseeker's allowance in force in favour of a person where there is applicable to that person any amount determined in accordance with regulation 87 of the Jobseeker's Allowance Regulations.

(4) Where section 159A of the Administration Act does not apply to an award of a jobseeker's allowance by virtue of paragraph (3), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made by an order under section 150 of the Administration Act.

[<sup>F22</sup>(5) Section 159B of the Administration Act (effect of alterations affecting state pension credit) shall not apply to any award of state pension credit in favour of a person where in relation to that person the appropriate minimum guarantee includes an amount determined under paragraph 6 of Part III of Schedule I to the State Pension Credit Regulations .

(6) Where section 159B of the Administration Act does not apply to an award of state pension credit by virtue of paragraph (5), a decision under section 10 may be made in respect of that award for the sole purpose of giving effect to any change made to an award under section 150 of the Administration Act.]

**F22** Reg. 14(5)(6) added (7.4.2003) by [State Pension Credit \(Consequential, Transitional and Miscellaneous Provisions\) Regulations 2002 \(S.I. 2002/3019\)](#), regs. 1(2)(a), **20**

#### Marginal Citations

**M3** Schedule 3A was inserted by [S.I. 1988/1445](#); Schedule 3B was inserted by [S.I. 1989/534](#).

**M4** [S.I. 1987/1969](#).

**M5** Section 159A was inserted by section 24 of the [Jobseekers Act 1995 \(c.18\)](#).

### [<sup>F23</sup>Termination of award of income support]<sup>F24</sup>, jobseeker's allowance or employment and support allowance]

14A.—(1) This regulation applies in a case where an award of income support<sup>F25</sup>, a jobseeker's allowance or an employment and support allowance] (“the existing benefit”) exists in favour of a person and, if that award did not exist and a claim was made by that person or his partner for [<sup>F26</sup>an employment and support allowance,] a jobseeker's allowance or, as the case may be, income support (“the alternative benefit”), an award of the alternative benefit would be made on that claim.



(2) In a case to which this regulation applies, if a claim for the alternative benefit is made the Secretary of State may bring to an end the award of the existing benefit if he is satisfied that an award of the alternative benefit will be made on that claim.

(3) Where, under paragraph (2), the Secretary of State brings an award of the existing benefit to an end he shall do so with effect from the day immediately preceding the first day on which an award of the alternative benefit takes effect.

(4) Where an award of a jobseeker's allowance is made in accordance with the provisions of this regulation, paragraph 4 of Schedule 1 to the Jobseekers Act (waiting days) shall not apply.]

[<sup>F27</sup>(5) Where an award of an employment and support allowance is made in accordance with the provisions of this regulation, paragraph 2 of Schedule 2 to the Welfare Reform Act (waiting days) shall not apply. ]

- F23** Reg. 14A inserted (20.5.2002) by [Social Security and Child Support \(Decisions and Appeals\) \(Miscellaneous Amendments\) Regulations 2002 \(S.I. 2002/1379\)](#) , regs. 1(1) , **6**
- F24** Words in reg. 14A heading substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **39(2)**
- F25** Words in reg. 14A(1) substituted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **39(3)(a)**
- F26** Words in reg. 14A(1) inserted (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **39(3)(b)**
- F27** Reg. 14A(5) added (27.7.2008) by [Employment and Support Allowance \(Consequential Provisions\) \(No.2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(a), **39(4)**

### **Jobseeker's allowance determinations on incomplete evidence**

15. Where, for the purpose of a decision under section 8 or 10—

- (a) a determination falls to be made by the Secretary of State as to whether—
  - (i) in relation to any person, the applicable amount falls to be reduced or disregarded to any extent by virtue of section 15 of the Jobseekers Act (persons affected by trade disputes); or
  - (ii) for the purposes of regulation 54(2) to (4) of the Jobseeker's Allowance Regulations (relevant education), a person is by virtue of that regulation, to be treated as receiving relevant education; and
- (b) it appears to the Secretary of State that he is not in possession of all of the evidence or information which is relevant for the purposes of such a determination,

he shall make the determination on the assumption that the relevant evidence or information which is not in his possession is adverse to the claimant.

### **[<sup>F28</sup>Provision of information**

**15A.**—[<sup>F29</sup>(1) Where the [<sup>F30</sup>Secretary of State] has received an application under section 16 or 17 of the Child Support Act in connection with a previously determined variation which has effect on the maintenance calculation in force, [<sup>F30</sup>the Secretary of State] may request further information or evidence from the applicant to enable a decision on that application to be made and any such information or evidence shall be provided within one month of the date of notification of the request, or such longer period as the [<sup>F30</sup>Secretary of State] is satisfied is reasonable in the circumstances of the case.

(2) Where any information or evidence requested in accordance with paragraph (1) is not provided within the time limit specified in that paragraph, the [F30Secretary of State] may, where [F30the Secretary of State] is able to do so, proceed to make the decision in the absence of that information or evidence.]

- F28** Regs. 15A-15D inserted (3.3.2003 for specified purposes and with effect in accordance with reg. 1(1) (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **10** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F29** Reg. 15A omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**
- F30** Words in reg. 15A substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(7)**

### **Procedure in relation to an application made under section 16 or 17 of the Child Support Act in connection with a previously determined variation**

**15B.**—[F31(1) Subject to paragraph (3), where the [F32Secretary of State] has received an application under section 16 or 17 of the Child Support Act in connection with a previously determined variation which has effect on the maintenance calculation in force, [F32the Secretary of State]—

- (a) shall give notice of the application to the relevant persons, other than the applicant, informing them of the grounds on which the application has been made and any relevant information or evidence the applicant has given, except information or evidence falling within paragraph (2);
  - (b) may invite representations, which need not be in writing but shall be in writing if in any case [F32the Secretary of State] so directs, from the relevant persons other than the applicant on any matter relating to that application, to be submitted to the [F32Secretary of State] within 14 days of notification or such longer period as the [F32Secretary of State] is satisfied is reasonable in the circumstances of the case; and
  - (c) shall set out the provisions of paragraphs (2)(b) and (c), (4) and (5) in relation to such representations.
- (2) The information or evidence referred to in paragraphs (1)(a), (4)(a) and (7), is—
- (a) details of the nature of the long-term illness or disability of the relevant other child which forms the basis of a variation application on the ground in regulation 11 of the Variations Regulations (special expenses — illness or disability of relevant other child) where the applicant requests they should not be disclosed and the [F33Secretary of State] is satisfied that disclosure is not necessary in order to be able to determine the application;
  - (b) medical evidence or medical advice which has not been disclosed to the applicant or a relevant person and which the [F33Secretary of State] considers would be harmful to the health of the applicant or that relevant person if disclosed to him;
  - (c) the address of a relevant person or qualifying child, or any other information which could reasonably be expected to lead to that person or child being located, where the [F33Secretary of State] considers that there would be a risk of harm or undue distress to that person or that child or any other children living with that person if the address or information were disclosed.
- (3) The [F34Secretary of State] need not act in accordance with paragraph (1) if—

- (a) [F<sup>35</sup>satisfied on the information or evidence available that a variation of the maintenance calculation in force will not be agreed], but if, on further consideration [F<sup>36</sup>the Secretary of State] is minded to do so [F<sup>36</sup>the Secretary of State] shall, before doing so, comply with the provisions of this regulation; and
- (b) were the application to succeed, the decision as revised or superseded would be less advantageous to the applicant than the decision before it was so revised or superseded.
- (4) Where the [F<sup>37</sup>Secretary of State] receives representations from the relevant persons [F<sup>38</sup>the Secretary of State]—
- (a) may, if [F<sup>39</sup>the Secretary of State] considers it reasonable to do so, send a copy of the representations concerned (excluding material falling within paragraph (2) above) to the applicant and invite any comments [F<sup>40</sup>to be provided] within 14 days or such longer period as the [F<sup>37</sup>Secretary of State] is satisfied is reasonable in the circumstances of the case; and
- (b) where the [F<sup>37</sup>Secretary of State] acts under sub-paragraph (a), shall not proceed to make a decision in response to the application until [F<sup>41</sup>the Secretary of State] has received such comments or the period referred to in sub-paragraph (a) has expired.
- (5) Where the [F<sup>42</sup>Secretary of State] has not received representations from the relevant persons notified in accordance with paragraph (1) within the time limit specified in sub-paragraph (b) of that paragraph, [F<sup>42</sup>the Secretary of State] may proceed to make a decision under section 16 or 17 of the Child Support Act in response to the application, in their absence.
- (6) In considering an application for a revision or supersession the [F<sup>42</sup>Secretary of State] shall take into account any representations received at the date upon which [F<sup>42</sup>the Secretary of State] makes a decision under section 16 or 17 of the Child Support Act, from the relevant persons including any representations received in connection with the application in accordance with paragraphs (1) (b), (4)(a) and (7).
- (7) Where any information or evidence requested by the [F<sup>43</sup>Secretary of State] under regulation 15A is received after notification has been given under paragraph (1), [F<sup>43</sup>the Secretary of State] may, if [F<sup>43</sup>the Secretary of State] considers it reasonable to do so and except where such information or evidence falls within paragraph (2), send a copy of such information or evidence to the relevant persons and may invite them to submit representations, which need not be in writing unless the [F<sup>43</sup>Secretary of State] so directs in any particular case, on that information or evidence.
- (8) Where the [F<sup>44</sup>Secretary of State] is considering making a decision under section 16 or 17 of the Child Support Act in accordance with this regulation, [F<sup>44</sup>the Secretary of State] shall apply the factors to be taken into account for the purposes of section 28F of the Child Support Act set out in regulation 21 of the Variations Regulations (factors to be taken into account and not to be taken into account) as factors to be taken into account and not to be taken into account when considering making a decision under this regulation.
- (9) In this regulation “relevant person” means—
- (a) a non-resident parent, or a person treated as a non-resident parent under regulation 8 of the Maintenance Calculations and Special Cases Regulations (persons treated as non-resident parents), whose liability to pay child support maintenance may be affected by any variation agreed;
- (b) a person with care, or a child to whom section 7 of the Child Support Act applies, where the amount of child support maintenance payable by virtue of a calculation relevant to that person with care or in respect of that child may be affected by any variation agreed.]

- F28** Regs. 15A-15D inserted (3.3.2003 for specified purposes and with effect in accordance with reg. 1(1) (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **10** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F31** Reg. 15B omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**
- F32** Words in reg. 15B(1) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(8)(a)**
- F33** Words in reg. 15B(2) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(8)(b)**
- F34** Words in reg. 15B(3) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(8)(c)(i)**
- F35** Words in reg. 15B(3)(a) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. paras. 113(8)(c)(ii)(aa)**
- F36** Words in reg. 15B(3)(a) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. paras. 113(8)(c)(ii)(bb)**
- F37** Words in reg. 15B(4) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(8)(d)(i)**
- F38** Words in reg. 15B(4) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(8)(d)(ii)**
- F39** Words in reg. 15B(4)(a) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. paras. 113(8)(d)(iii)(aa)**
- F40** Words in reg. 15B(4)(a) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. paras. 113(8)(d)(iii)(bb)**
- F41** Words in reg. 15B(4)(b) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(8)(d)(iv)**
- F42** Words in reg. 15B(5)(6) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(8)(e)**
- F43** Words in reg. 15B(7) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(8)(f)**
- F44** Words in reg. 15B(8) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(8)(g)**

### Notification of a decision made under section 16 or 17 of the Child Support Act

**15C.**—<sup>F45</sup>(1) Subject to paragraphs (2) and (5) to (11), a notification of a decision made following the revision or supersession of a decision made under section 11, 12 or 17 of the Child Support Act, whether as originally made or as revised under section 16 of that Act, shall set out, in relation to the decision in question—

- (a) the effective date of the maintenance calculation;
- (b) where relevant, the non-resident parent's net weekly income;
- (c) the number of qualifying children;
- (d) the number of relevant other children;
- (e) the weekly rate;
- (f) the amounts calculated in accordance with Part I of Schedule 1 to the Child Support Act and, where there has been agreement to a variation or a variation has otherwise been taken into account, the Variations Regulations;
- (g) where the weekly rate is adjusted by apportionment or shared care or both, the amount calculated in accordance with paragraph 6, 7 or 8, as the case may be, of Part I of Schedule 1 to the Child Support Act; and
- (h) where the amount of child support maintenance which the non-resident parent is liable to pay is decreased in accordance with regulation 9 of the Maintenance Calculations and Special Cases Regulations (care provided in part by local authority) or 11 (non-resident parent liable to pay maintenance under a maintenance order) of those Regulations, the adjustment calculated in accordance with that regulation.

(2) A notification of a revision or supersession of a maintenance calculation made under section 12(1) of the Child Support Act shall set out the effective date of the maintenance calculation, the default rate, the number of qualifying children on which the rate is based and whether any apportionment has been applied under regulation 7 of the Maintenance Calculation Procedure Regulations (default rate) and shall state the nature of the information required to enable a decision under section 11 of that Act to be made by way of section 16 of that Act.

(3) Except where a person gives written permission to the [<sup>F46</sup>Secretary of State] that the information in relation to him, mentioned in sub-paragraphs (a) and (b), may be conveyed to other persons, any document given or sent under the provisions of paragraph (1) or (2) shall not contain—

- (a) the address of any person other than the recipient of the document in question (other than the address of the office of the officer concerned who is exercising functions of the [<sup>F46</sup>Secretary of State] under the Child Support Act) or any other information the use of which could reasonably be expected to lead to any such person being located;
- (b) any other information the use of which could reasonably be expected to lead to any person, other than a qualifying child or a relevant person, being identified.

(4) Where a decision as to the revision or supersession of a decision made under section 11, 12 or 17 of the Child Support Act, whether as originally made or as revised under section 16 of that Act, is made under section 16 or 17 of that Act, a notification under paragraph (1) or (2) shall include information as to the provisions of sections 16, 17 and 20 of that Act.

(5) Where the [<sup>F47</sup>Secretary of State] makes a decision that a maintenance calculation shall cease to have effect—

- (a) [<sup>F47</sup>the Secretary of State] shall immediately notify the non-resident parent and person with care, so far as that is reasonably practicable;
- (b) where a decision has been superseded in a case where a child under section 7 of the Child Support Act ceases to be a child for the purposes of that Act, [<sup>F47</sup>the Secretary of State] shall immediately notify the persons in sub-paragraph (a) and the other qualifying children within the meaning of section 7 of that Act; and
- (c) any notice under sub-paragraphs (a) and (b) shall specify the date with effect from which that decision took effect.

(6) <sup>F48</sup>Where the <sup>F49</sup>Commission], under the provisions of section 16 or 17 of the Child Support Act, has made a decision that an adjustment shall cease, or adjusted the amount payable under a maintenance calculation, <sup>F49</sup>it] shall immediately notify the relevant persons, so far as that is reasonably practicable, that the adjustment has ceased or of the amount and period of the adjustment, and the amount payable during the period of the adjustment.]

(7) <sup>F48</sup>Where the <sup>F49</sup>Commission] has made a decision under section 16 of the Child Support Act, revising a decision under section 41A or 47 of that Act, <sup>F49</sup>it] shall immediately notify the relevant persons so far as that is reasonably practicable, of the amount of child support maintenance payable, the amount of arrears, the amount of the penalty payment or fees to be paid, as the case may be, the method of payment and the day by which payment is to be made.]

(8) <sup>F48</sup>Where the non-resident parent appeals against a decision made by the <sup>F49</sup>Commission] under section 41A or 47 of the Child Support Act and the <sup>F49</sup>Commission] makes a decision under section 16 of that Act, before the appeal is decided <sup>F49</sup>it] shall notify the relevant persons, so far as that is reasonably practicable of either the new amount of the penalty payment or the fee to be paid or that the amount is no longer payable, the method of payment and the day by which payment is to be made.]

(9) Paragraphs (1) to (3) shall not apply where the <sup>F50</sup>Secretary of State] has decided not to supersede a decision under section 17 of the Child Support Act, and <sup>F50</sup>the Secretary of State] shall, so far as that is reasonably practicable, notify the relevant persons of that decision.

(10) A notification under paragraphs (6) to (9) shall include information as to the provisions of sections 16, 17 and 20 of the Child Support Act.

(11) Where paragraph (9) applies, and the <sup>F51</sup>Secretary of State] decides not to supersede under regulation 6B, <sup>F51</sup>the Secretary of State] shall notify the relevant person, in relation to the decision in question of—

- (a) the fact that regulation 6B applies to the decision;
- (b) the non-resident parent's net income figure fixed for the purposes of the maintenance calculation in force in accordance with Part I of Schedule 1 to the Child Support Act;
- (c) the non-resident parent's net income figure provided by that parent to the <sup>F51</sup>Secretary of State] with the application for supersession under regulation 6A(3);
- (d) the decision of the <sup>F51</sup>Secretary of State] not to supersede; and
- (e) the right to appeal against the decision under section 20 of the Child Support Act.

(12) Where an appeal lapses in accordance with section 16(6) or 28F(5) of the Child Support Act, the <sup>F52</sup>Secretary of State] shall, so far as that is reasonably practicable, notify the relevant persons that the appeal has lapsed.]

**F28** Regs. 15A-15D inserted (3.3.2003 for specified purposes and with effect in accordance with reg. 1(1) (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **10** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)

**F45** Reg. 15C omitted (10.12.2012 coming into force in accordance with reg. 1(4)) by virtue of [The Child Support \(Meaning of Child and New Calculation Rules\) \(Consequential and Miscellaneous Amendment\) Regulations 2012 \(S.I. 2012/2785\)](#), regs. 1(4), **6(3)**

**F46** Words in reg. 15C(3) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(9)(a)**

**F47** Words in reg. 15C(5) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(9)(b)**

- F48** Regs. 15C(6)-(8) omitted (6.4.2009) by virtue of [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(10)(b)** (with reg. 7)
- F49** Words in reg. 15C substituted (6.4.2009) by [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(10)(a)** (with reg. 7)
- F50** Words in reg. 15C(9) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(9)(b)**
- F51** Words in reg. 15C(11) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(9)(b)**
- F52** Words in reg. 15C(12) substituted (1.8.2012) by [The Public Bodies \(Child Maintenance and Enforcement Commission Abolition and Transfer of Functions\) Order 2012 \(S.I. 2012/2007\)](#), art. 1(2), **Sch. para. 113(9)(c)**

### **Procedure in relation to the adjustment of the amount payable under a maintenance calculation**

**15D.**—<sup>F53</sup>(1) Where the Secretary of State has adjusted the amount payable under a maintenance calculation under the provisions of regulation 10(1) and (3A) of the Arrears, Interest and Adjustment of Maintenance Assessments Regulations and that maintenance calculation is subsequently replaced by a fresh maintenance calculation made by virtue of a revision under section 16 of the Child Support Act or of a decision under section 17 of that Act superseding an earlier decision, that adjustment shall, subject to paragraph (2), continue to apply to the amount payable under that fresh maintenance calculation unless the Secretary of State is satisfied that such adjustment would not be appropriate in all the circumstances of the case.

(2) Where the Secretary of State is satisfied that the adjustment referred to in paragraph (1) would not be appropriate, he may make a decision under section 17 of the Child Support Act, superseding an earlier decision making an adjustment, and—

(a) the adjustment shall cease; or

(b) he may adjust the amount payable under that fresh maintenance calculation,

as he sees fit, having regard to the matters specified in regulation 10(1)(b)(i) to (iii) of the Arrears, Interest and Adjustment of Maintenance Assessments Regulations.]]

- F28** Regs. 15A-15D inserted (3.3.2003 for specified purposes and with effect in accordance with reg. 1(1) (2) of the amending S.I.) by [The Child Support \(Decisions and Appeals\) \(Amendment\) Regulations 2000 \(S.I. 2000/3185\)](#), reg. 1(1)(2), **10** (with reg. 14(3)) (see S.I. 2003/192, art. 3, Sch.)
- F53** Reg. 15D omitted (6.4.2009) by virtue of [Child Support \(Miscellaneous Amendments\) Regulations 2009 \(S.I. 2009/396\)](#), regs. 1, **4(11)** (with reg. 7)

**Changes to legislation:**

There are currently no known outstanding effects for the The Social Security and Child Support (Decisions and Appeals) Regulations 1999, CHAPTER III.