
STATUTORY INSTRUMENTS

2008 No. 2667

**The Social Security (Miscellaneous
Amendments) (No. 5) Regulations 2008**

Amendment of the Social Security and Child Support (Decisions and Appeals) Regulations 1999

3.—(1) The Social Security and Child Support (Decisions and Appeals) Regulations 1999(1) are amended as follows.

(2) In regulation 3(2) (revision of decisions) after paragraph (8B) insert—

“(8C) A decision made under section 8 or 10 (“the original decision”) may be revised at any time—

(a) where, on or after the date of the original decision—

- (i) a late paid contribution is treated as paid under regulation 5(3) of the Social Security (Crediting and Treatment of Contributions and National Insurance Numbers) Regulations 2001(4) (treatment of late paid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made;
- (ii) a direction is given under regulation 6(5) of those Regulations (treatment of contributions paid late through ignorance or error) that a late contribution shall be treated as paid on a date which falls on or before the date on which the original decision was made; or
- (iii) an unpaid contribution is treated as paid under regulation 60(6) of the Social Security (Contributions) Regulations 2001(7) (treatment of unpaid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made; and

(b) where any of paragraphs (i), (ii) or (iii) apply, either an award of benefit would have been made or the amount of benefit awarded would have been different.”.

(3) In regulation 6(8) (supersession of decisions)—

(a) in paragraph (2)(g) for “doctor” substitute “health care professional”;

(b) after paragraph (2)(r) insert—

“(s) is a decision where on or after the date on which the decision was made, a late or unpaid contribution is treated as paid under—

(1) S.I. 1999/991.

(2) The relevant amending instrument is S.I. 2002/490.

(3) Regulation 5 was amended by S.I. 2002/2366 and is amended by 2008/1554 with effect from 27 October 2008.

(4) S.I. 2001/769.

(5) Regulation 6 was amended by S.I. 2002/2366.

(6) Regulation 60 was amended by S.I. 2002/2366 and 2007/1056.

(7) S.I. 2001/1004.

(8) Relevant amending instruments are S.I. 1999/1623 and 2008/1554.

- (i) regulation 5 of the Social Security (Crediting and Treatment of Contributions and National Insurance Numbers) Regulations 2001 (treatment of late paid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made;
 - (ii) regulation 6 of those Regulations (treatment of contributions paid late through ignorance or error) on a date which falls on or before the date on which the original decision was made; or
 - (iii) regulation 60 of the Social Security (Contributions) Regulations 2001 (treatment of unpaid contributions where no consent, connivance or negligence by the primary contributor) on a date which falls on or before the date on which the original decision was made.”.
- (4) In regulation 7(9) (date from which a decision superseded under section 10 takes effect)—
- (a) in paragraph (1)(a) after “(2)(b)” insert “,(bb)”;
 - (b) for paragraph (2)(bb) substitute—
 - “(bb) where the decision is advantageous to the claimant and is made on the Secretary of State’s own initiative—
 - (i) except where paragraph (ii) applies, from the beginning of the benefit week in which the Secretary of State commenced action with a view to supersession; or
 - (ii) in the case of a claimant who is in receipt of income support, jobseeker’s allowance or state pension credit where benefit is paid in advance and the Secretary of State commenced action with a view to supersession on a day which was not the first day of the benefit week, from the beginning of the benefit week following the week in which the Secretary of State commenced such action;”;
 - (c) for paragraph (2)(bc) substitute—
 - “(bc) where—
 - (i) the claimant is a disabled person or a disabled person’s partner;
 - (ii) the decision is advantageous to the claimant; and
 - (iii) the decision is made in connection with the cessation of payment of a carer’s allowance relating to that disabled person,
 the day after the last day for which carer’s allowance was paid to a person other than the claimant or the claimant’s partner;”;
 - (d) omit paragraph (2A);
 - (e) after paragraph (8) insert—
 - “(8A) Where a decision is superseded in accordance with regulation 6(2)(s), the superseding decision shall take effect from the date on which the late or unpaid contribution is treated as paid.”;
 - (f) in paragraph (9)(b) and (c) for “first pay day (as specified in Schedule 6 to the Claims and Payments Regulations) after” substitute “date on which”;
 - (g) in paragraph (31) omit “immediately following the day”.

(9) The relevant amending instruments are S.I. 1999/2677, 2000/119, 2000/1596, 2000/1982, 2002/3019, 2003/1050, 2003/2274, 2006/2377, 2007/2470, 2008/1042 and 2008/1554.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
