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STATUTORY INSTRUMENTS

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**2021 No. 1065**

**The Social Security Benefits (Claims and Payments) (Amendment) Regulations 2021**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Social Security Benefits (Claims and Payments) (Amendment) Regulations 2021 and come into force on 18th October 2021.

(2) Regulation 2 extends—

(a) to England and Wales in relation to the following benefits<sup>(1)</sup>—

- (i) disability living allowance;
- (ii) attendance allowance;
- (iii) severe disablement allowance;
- (iv) industrial injuries disablement benefit;
- (v) carer’s allowance;
- (vi) social fund payment in respect of maternity expenses;
- (vii) social fund funeral payment;
- (viii) social fund cold weather payment;
- (ix) social fund winter fuel payment.

(b) to England and Wales and Scotland in relation to the other benefits to which the Social Security (Claims and Payments) Regulations 1987<sup>(2)</sup> apply.

(3) Regulation 3 extends as follows—

(a) paragraph (1)—

- (i) in so far as it relates to paragraphs (2), (4) and (5), extends to England and Wales and Scotland;

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(1) The provisions being amended by regulations 2 and 3 extend to England and Wales and Scotland. This instrument does not reflect a presumption that amendments will have the same extent and application as the provisions amended because the Secretary of State does not have executive competence to exercise functions, as regards Scotland, in relation to the benefits mentioned in regulations 1(2)(a) and 3(3). The function of making regulations under section 5 of the Social Security Administration Act 1992 is exercisable by the Secretary of State by virtue of section 189(1) of that Act. The functions of the Secretary of State under sections 5 and 189 of the Social Security Administration Act 1992, as regards Scotland, transferred to the Scottish Ministers on 1st April 2020. Legislative competence for disability, industrial injuries and carer’s benefits and benefits for maternity, funeral and heating expenses were transferred to the Scottish Parliament by sections 22(2) and 23(2) of the Scotland Act 2016 (c. 11) (“the 2016 Act”). Sections 22(2) and 23(2) inserted exceptions into Section F1 of Schedule 5 to the Scotland Act 1998 (c. 46). Sections 22(2) and 23(2) of the 2016 Act were brought into force on 17th May 2017 by S.I. 2017/455, subject to transitional arrangements set out in S.I. 2017/444 which modified the operation of the Scotland Act 1998. Section 32 of the Scotland Act 2016 provides the meaning of “pre-commencement enactment” in this context. The transitional arrangements in respect of disability, industrial injuries and carer’s benefits, and benefits for maternity, funeral and heating expenses ended on 31st March 2020 (see regulations 4 and 7 of S.I. 2017/444). Accordingly, in so far as the functions under section 5 and 189 are exercisable within devolved competence, they are now exercisable by the Scottish Ministers. To ensure that provisions relating to the payment of arrears of benefit by instalments, introduced by these Regulations, operate identically across England and Wales and Scotland, the Scottish Ministers are making parallel regulations, (the Social Security (Claims and Payments) (Miscellaneous Amendments) (Scotland) Regulations 2021), to these Regulations to come into force on 18th October 2021.

(2) S.I. 1987/1968, to which there are amendments not relevant to these Regulations.

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

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- (ii) in so far as it relates to paragraph (3), extends to England and Wales;
- (b) paragraphs (2), (4) and (5) extend to England and Wales and Scotland;
- (c) paragraph (3) extends to England and Wales.
- (4) These Regulations do not extend to Northern Ireland.