Draft Regulations laid before Parliament under section 80(1) of the Social Security Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2000 No.

SOCIAL SECURITY
FAMILY LAW
CHILD SUPPORT

The Social Security and Child Support (Miscellaneous Amendments) Regulations 2000

Made - - - -	*2000*
Coming into force - -	*19th June 2000*

Whereas a draft of this Instrument was laid before Parliament in accordance with section 80(1) of the Social Security Act 1998(**1**) and approved by a resolution of each House of Parliament;

Now, therefore, the Secretary of State for Social Security, in exercise of the powers set out in the Schedule to this Instrument and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make the Regulations should not be referred to it(**2**) and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(**3**), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security and Child Support (Miscellaneous Amendments) Regulations 2000 and shall come into force on 19th June 2000.

(2) In these Regulations—

"the Claims and Payments Regulations" means the Social Security (Claims and Payments) Regulations 1987(**4**);

(**1**) 1998 c. 14.
(**2**) *See* sections 170 and 173(1)(b) of the Social Security Administration Act 1992 (c. 5) ("the 1992 Act"); the Social Security Act 1998 is a relevant enactment for the purposes of section 170(5) of the 1992 Act by virtue of the amendment of section 170(5) of the 1992 Act by the Social Security Act 1998, Schedule 7, paragraph 104(a).
(**3**) 1992 c. 53.
(**4**) S.I.1987/1968; relevant amending instruments are S.I. 1993/1113, 1996/1460, 1997/793 and 2290, 1998/1174 and 1999/3178 (C. 81).

"the Departure Regulations" means the Child Support Departure Direction and Consequential Amendments Regulations 1996(**5**);

"the Industrial Injuries Regulations" means the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1985(**6**);

"the Maintenance Regulations" means the Child Support (Maintenance Assessment Procedure) Regulations 1992(**7**); and

"the principal Regulations" means the Social Security and Child Support (Decisions and Appeals) Regulations 1999(**8**).

Amendment of the Industrial Injuries Regulations

2. In regulation 7(4) for the words "review of the assessment" to the end of that regulation there shall be substituted the words "a supersession of the assessment relating to the relevant period.".

Amendment of the Claims and Payments Regulations

3. In regulation 6—

(a) for paragraphs (16) to (26) there shall be substituted the following paragraphs—

"(16) Where a person has claimed a relevant benefit and that claim ("the original claim") has been refused in the circumstances specified in paragraph (17), and a further claim is made in the additional circumstances specified in paragraph (18), that further claim shall be treated as made—

(a) on the date of the original claim; or

(b) on the first date in respect of which the qualifying benefit was payable,

whichever is the later.

(17) The circumstances referred to in paragraph (16) are that the ground for refusal was—

(a) in the case of severe disablement allowance, that the claimant's disablement was less than 80 per cent.;

(b) in the case of invalid care allowance, that the disabled person was not a severely disabled person within the meaning of section 70(2) of the Contributions and Benefits Act(**9**);

(c) in any case, that the claimant had not been awarded a qualifying benefit.

(18) The additional circumstances referred to in paragraph (16) are that—

(a) the claimant had made a claim for the qualifying benefit not later than ten days after the date of the original claim, and the claim for the qualifying benefit had not been decided;

(b) after the original claim had been decided the claim for the qualifying benefit had been decided in the claimant's or the disabled person's favour; and

(c) the further claim was made within three months of the date on which the claim for the qualifying benefit was decided.

(**5**) S.I. 1996/2907; relevant amending instruments are S.I. 1999/1047 and 2000/897.
(**6**) S.I. 1985/967, to which there are amendments not relevant to these Regulations.
(**7**) S.I. 1992/1813; relevant amending instruments are S.I. 1999/1047 and 2000/897.
(**8**) S.I. 1999/991; relevant amending instruments are S.I. 1999/1466, 1623 and 3178 (C. 81) and 2000/119 and 897.
(**9**) 1992 c. 4.

(19) Where a person has been awarded a relevant benefit and that award (" the original award") has been terminated in the circumstances specified in paragraph (20), and a further claim is made in the additional circumstances specified in paragraph (21), that further claim shall be treated as made—

(a) on the date of termination of the original award; or

(b) on the first date in respect of which the qualifying benefit again becomes payable,

whichever is the later.

(20) The circumstances referred to in paragraph (19) are that the award of the qualifying benefit has itself been terminated or reduced by means of a revision, supersession or appeal in such a way as to affect the award of the relevant benefit.

(21) The additional circumstances referred to in paragraph (19) are that—

(a) after the original award has been terminated the claim for the qualifying benefit is decided in the claimant's or the disabled person's favour; and

(b) the further claim is made within three months of the date on which the qualifying benefit is re-awarded, following revision, supersession or appeal.

(22) In paragraphs (16) to (21)—

"relevant benefit" means any of the following, namely—

(a) benefit under Parts II to V of the Contributions and Benefits Act except incapacity benefit;

(b) income support;

(c) a jobseeker's allowance;

(d) a social fund payment mentioned in section 138(1)(a) or (2) of the Contributions and Benefits Act;

(e) child benefit; "qualifying benefit" means—

(f) in relation to severe disablement allowance, the highest rate of the care component of disability living allowance;

(g) in relation to invalid care allowance, any benefit or payment referred to in section 70(2) of the Contributions and Benefits Act;

(h) in relation to a social fund payment in respect of maternity or funeral expenses, any benefit referred to in regulation 5(1)(a) or 7(1)(a) of the Social Fund Maternity and Funeral Expenses (General) Regulations 1987(**10**);

(i) any other relevant benefit which has the effect of making another relevant benefit payable or payable at an increased rate;

"the disabled person" means the person for whom the invalid care allowance claimant is caring in accordance with section 70(1)(a) of the Contributions and Benefits Act.

(23) Where a person has ceased to be entitled to incapacity benefit, and a further claim for that benefit is made in the circumstances specified in paragraph (24), that further claim shall be treated as made—

(a) on the date on which entitlement to incapacity benefit ceased; or

(b) on the first date in respect of which the qualifying benefit was payable, whichever is the later.

(**10**) S.I. 1987/481; relevant amending instruments are S.I. 1988/36, 1991/2742, 1996/1443, 1997/792 and 2000/528.

(24) The circumstances referred to in paragraph (23) are that—

(a) entitlement to incapacity benefit ceased on the ground that the claimant was not incapable of work;

(b) at the date that entitlement ceased the claimant had made a claim for a qualifying benefit and that claim had not been decided;

(c) after entitlement had ceased, the claim for the qualifying benefit was decided in the claimant's favour; and

(d) the further claim for incapacity benefit was made within three months of the date on which the claim for the qualifying benefit was decided.

(25) In paragraphs (23) and (24) "qualifying benefit" means any of the payments referred to in regulation 10(2)(a) of the Social Security (Incapacity for Work) (General) Regulations 1995(**11**).

(26) In paragraphs 18(a) and (c), 21(a), 24 and in paragraph 18(b) where the word appears for the second time, "decided" includes the making of a decision following a revision, supersession or an appeal, whether by the Secretary of State, an appeal tribunal, a Commissioner or the court."; and

(b) in paragraph (29) for the words "paragraphs (16) and (21)" there shall be substituted the words "paragraphs (16) and (19)".

4.—(1) In regulation 26(1) the words ", the date from which a superseding decision on the ground of a relevant change of circumstances has effect" shall be omitted;

(2) In regulation 26A paragraphs (4) to (8) shall be omitted.

5. In Schedule 7 the words ", EFFECTIVE DATE OF SUPERSEDING DECISION" shall be omitted from the heading and paragraph 7 shall be omitted.

Amendment of the Maintenance Regulations

6. In regulation 1(2), in the definition of "official error" for sub-paragraph (b) there shall be substituted—

(b) "a person employed by a designated authority acting on behalf of the authority, which no person outside that authority caused or to which no person outside that authority materially contributed,

but excludes any error of law which is only shown to have been an error by virtue of a subsequent decision of a Child Support Commissioner or the court;".

7. In regulation 17, in paragraph (6)(a)(i) for the words "the date as from which the decision had effect" there shall be substituted the words " the date on which the decision was made".

8. In regulation 20, in paragraph (3)(a)(i) for the words "since the decision was made" there shall be substituted the words "since the date from which the decision had effect".

9. In regulation 23—

(a) in paragraph (2) for the words "Where a decision is superseded" there shall be substituted the words "Subject to paragraph (19), where a decision is superseded";

(b) in paragraph (4) for the words "Where a superseding decision is made " there shall be substituted the words "Subject to paragraph (19), where a superseding decision is made"; and

(**11**) S.I. 1995/311; the relevant amending instrument is S.I. 1995/987.

(c) after paragraph (18) there shall be added the following paragraph—

"(19) Where a superseding decision is made in a case to which regulation 20(2)(a) or (3) applies and the material circumstance is the death of a qualifying child or a qualifying child ceasing to be a qualifying child, the decision shall take effect as from the first day of the maintenance period in which the change occurred.".

Amendment of the Departure Regulations

10. In regulation 1(2), in the definition of "official error" for sub-paragraph (b) there shall be substituted—

(b) "a person employed by a designated authority acting on behalf of the authority, which no person outside that authority caused or to which no person outside that authority materially contributed,

but excludes any error of law which is only shown to have been an error by virtue of a subsequent decision of a Child Support Commissioner or the court;".

11. In regulation 8 paragraph (8) shall be omitted.

12. In regulation 32A, in paragraph (2)(a)(i) for the words "the date from which the decision had effect" there shall be substituted the words " the date on which the decision was made".

13. In regulation 32E—

(a) in paragraph (2) for the words "(3) and (5)" there shall be substituted the words "(3), (5) and (12)";

(b) in paragraph (3) for the words "Where a decision" there shall be substituted the words "Subject to paragraph (12), where a decision"; and

(c) after paragraph (11) there shall be added the following paragraph—

"(12) Where a superseding decision is made in a case to which regulation 32D(2)(a) or (3) applies and the material circumstance is the death of a qualifying child or a qualifying child ceasing to be a qualifying child, the decision shall take effect as from the first day of the maintenance period in which the change occurred.".

Amendment of the principal Regulations

14. In regulation 1(3)—

(a) after the definition of "designated authority" there shall be inserted the following definition —

""family" has the same meaning as in section 137 of the Contributions and Benefits Act;";

(b) in the definition of "official error" for sub-paragraph (b) there shall be substituted—

(b) "a person employed by a designated authority acting on behalf of the authority, which no person outside that authority caused or to which no person outside that authority materially contributed,

but excludes any error of law which is only shown to have been an error by virtue of a subsequent decision of a Commissioner or the court;" ; and

(c) after the definition of "referral" there shall be inserted the following definition—

""relevant credit" means a credit of contributions or earnings resulting from a decision in accordance with regulations made under section 22(5) of the Contributions and Benefits Act;".