STATUTORY INSTRUMENTS

1990 No. 603

SOCIAL SECURITY

The Social Security (Adjudication) Amendment Regulations 1990

Made - - - -	*14th March 1990*
Laid before Parliament	*16th March 1990*
Coming into force	*6th April 1990*

The Secretary of State for Social Security, in exercise of powers conferred by sections 100(4), 108(2) and (3), 115, 166(2) of and Schedules 13 and 20 to, the Social Security Act 1975(a) and sections 52 and 84(1) of, and paragraph 4(2) of Schedule 7 to, the Social Security Act 1986(b) and of all other powers enabling him in that behalf, after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(c) hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Adjudication) Amendment Regulations 1990 and shall come into force on 6th April 1990.

(2) In these Regulations, "the Adjudication Regulations" means the Social Security (Adjudication) Regulations 1986(d).

Amendment of regulation 1

2.—(1) Regulation 1 of the Adjudication Regulations (citation, commencement and interpretation) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (2) after the definition "inquiry" there shall be inserted the following definition –

" 'local office' means an office of the Department of Social Security, an office of the Department of Employment or the office of the Chief Adjudication Officer;".

(a) 1975 c.14. Schedule 20 is cited for the meaning it ascribes to "Prescribe" and "Regulations". Subsection (4) of section 100 was amended by paragraph 6 of Schedule 5 to the Social Security Act 1986 (c.50) (the 1986 Act); subsection (2) of section 108 was substituted by paragraph 21(1) of Schedule 8 to the Health and Social Services and Social Security Adjudications Act 1983 (c.41) (the 1983 Act) and amended by paragraph 6 of Schedule 4 to the Health and Social Security Act 1984 (c.48), subsection 3 of section 108 was amended by paragraph 21(2) of Schedule 8 to the 1983 Act; subsection 2 of section 115 was amended by paragraphs 5 and 25 of Schedule 8 to the 1983 Act; in Schedule 13, paragraph 1A was inserted by paragraph 19(a) of Schedule 5 to the 1986 Act, paragraph 7A was inserted by paragraph 10 of Schedule 3 to the Social Security Act 1989 (c.24), paragraph 8 was amended by paragraph 1(1) and (3) of Schedule 8 to the 1983 Act, paragraph 9 was amended by paragraph 12 of Schedule 8 to the 1983 Act and paragraph 10 was amended by paragraph 19(b) of Schedule 5 to the 1986 Act. Section 166(2) is applied to powers conferred by the 1986 Act to make regulations by section 83(1) of that Act. (b) 1986 c.50. Section 84(1) is cited for the meaning it ascribes to the words "prescribed" and "regulations". (c) 1971 c.62. (d) S.I.1986/2218, to which the relevant amendment is S.I.1987/1970.

(3) In paragraph (3)(b) after the words "be treated as having been" there shall be inserted the words "given or".

Amendment of regulation 3

3.—(1) Regulation 3 of the Adjudication Regulations (manner of making applications, appeals or references; and time limits) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (5) after the words "on which it is made or given" there shall be added the words "and, in the case of an appeal, it shall include sufficient particulars of the decision under appeal to enable that decision to be identified.".

(3) After paragraph (6) there shall be added the following paragraph –

"(7) A chairman of an appeal tribunal or a medical appeal tribunal may give directions for the disposal of any purported appeal where he is satisfied that the tribunal does not have jurisdiction to entertain the appeal.".

Amendment of regulation 6

4. In paragraph (2)(a)(i) of regulation 6 of the Adjudication Regulations (withdrawal of applications, appeals and references) for the words "the adjudication officer" there shall be substituted "an adjudication officer".

Omission of regulation 8

5. Regulation 8 of the Adjudication Regulations (medical references) shall be omitted.

Amendment of regulation 21

6.—(1) Regulation 21 of the Adjudication Regulations (procedure on claim or question involving questions for determination by the Secretary of State) shall be amended in accordance with the following provisions of this regulation.

(2) Paragraph (2) shall be omitted.

(3) For paragraphs (3) and (4) there shall be substituted the following paragraphs –

"(3) Where –

(a) the claimant replies to the notice referred to in paragraph (1) expressing his dissatisfaction with the decision, and

(b) after any appropriate investigations and explanations have been made, the claimant nonetheless remains dissatisfied with the decision, and

(c) an adjudication officer certifies that the sole ground for dissatisfaction appears to be the assumption referred to in paragraph (1),

the claimant shall be notified in writing of his right to apply for the determination by the Secretary of State of the question arising on the assumption.

(4) Where the Secretary of State's decision –

(a) upholds the assumption, section 100(3) of the 1975 Act shall apply as if the adjudication officer had given the certificate therein referred to;

(b) does not uphold the assumption, the Secretary of State's decision may be treated by the adjudication officer as an application for the review of the adjudication officer's decision, and for the purposes of regulation 65, the date of the claimant's application for the Secretary of State's decision shall be treated as the date of the application for review.".

Amendment of regulation 24

7.—(1) Regulation 24 of the Adjudication Regulations (oral hearing of appeals and references) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (l) after the words "An appeal tribunal shall" there shall be inserted the words "except where section 104(3B)(a)(a) of the 1975 Act applies".

(3) Paragraphs (4) and (5) shall be omitted.

Omission of regulation 35

8. Regulation 35 of the Adjudication Regulations (reference by a medical appeal tribunal of a question of law for decision by a Commissioner) shall be omitted.

Amendment of regulation 36

9.—(1) Regulation 36 of the Adjudication Regulations (procedure of a medical appeal tribunal on receipt of a Commissioner's decision) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (l) the words "or reference" shall be omitted.

(3) Paragraph (3) shall be omitted.

(4) In paragraph (4) for the words "unless the medical appeal tribunal consists of" to the end there shall be substituted the words –

"subject to any direction of the Commissioner, be by way of a complete rehearing of the appeal by persons who were not members of the tribunal which gave the erroneous decision".

Amendment of regulation 38

10.—(1) Regulation 38 of the Adjudication Regulations (application for reviews of determinations made by the Board) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (l) after the words "a determination on any ground is" there shall be inserted the words ", subject to paragraph (lA),".

(3) After paragraph (l) there shall be inserted the following paragraph -

"(lA) Where a claimant submits an application for review under paragraph (l) by post, and the arrival of the application at a local office is delayed by postal disruption caused by industrial action, whether within the postal service or elsewhere, the application shall be treated as received on the day on which it would have been received if it had been delivered in the ordinary course of post.".

Amendment of Schedule 2

11.—(1) Schedule 2 to the Adjudication Regulations (time. limits for making applications, appeals or references) shall be amended in accordance with the following provisions of this regulation.

(2) In Column 3 of paragraph 3 (specified time) for the words "medical board" there shall be substituted the words "adjudicating medical practitioner".

(a) Section 104(3B) was inserted into the Social Security Act 1975 by paragraph 7 of Schedule 3 to the Social Security Act 1989.

(3) In Column 2 of paragraphs 7 and 8 (appropriate office) the words "Health and" shall be omitted in both places where they occur.

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

Henley
Parliamentary Under-Secretary of State,
Department of Social Security

14th March 1990

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security (Adjudication) Regulations 1986 in the following respects –

(1) they add the definition "local office" to the interpretation provisions (regulation 2(2));

(2) they introduce a requirement that grounds of appeal should give sufficient particulars of the decision appealed against to enable it to be identified (regulation 3(2));

(3) they allow a chairman of a social security appeal tribunal or a medical appeal tribunal to give directions for the disposal of an appeal where he is satisfied that the tribunal does not have jurisdiction to hear the appeal (regulation 3 (3));

(4) they provide that where there is a withdrawal of an application, appeal or reference any adjudication officer may give consent to the withdrawal (regulation 4);

(5) they provide for the omission of regulation 8 (which deals with medical references) which is spent following the repeal by paragraph 8 of Schedule 13 of the enabling power under which it was made from the Social Security Act 1975 (regulation 5);

(6) they amend regulation 21 to remove references to an appeal from a Secretary of State's question (regulation 6);

(7) they amend regulation 24 to provide that except where an appeal has lapsed upon a review of a decision tribunals shall hold oral hearings of appeals; they also remove paragraphs (4) and (5) which are spent as a consequence of paragraph 9 of Schedule 13 ceasing to have effect by virtue of paragraph 3 of Schedule 13 to the Social Security Act 1989 (regulation 7);

(8) they omit regulation 35 which allows a medical appeal tribunal to make a reference on a question of law to a Commissioner as the tribunal no longer has power to do that (regulation 8);

(9) they make consequential amendments to regulation 36 to remove references to a reference by a medical appeal tribunal to a Commissioner and make provision for a newly constituted medical appeal tribunal, except where a Commissioner directs otherwise, to hear a case which is remitted from a Commissioner (regulation 9);

(10) they introduce the extension of the time limit for application for review to the Attendance Allowance Board where there is a postal dispute (regulation 10).

Minor amendments of a drafting nature have also been made.

Regulations 2(2), 3(3), 5, 6, 7, 8 and 9 are made as a consequence of the coming into force on 6th April 1990 of paragraphs 3(2), 5, 7, 9, 10 and 19 of Schedule 3 to the Social Security Act 1989 by the Social Security Act 1989 (Commencement No.3) Order 1990 (S.I. 1990/102).