STATUTORY INSTRUMENTS

1975 No. 572

SOCIAL SECURITY

The Social Security (Correction and Setting Aside of Decisions) Regulations 1975

Made - - - -	*7th April* 1975
Laid before Parliament	*16th April* 1975
Coming into Operation	*12th May* 1975

The Secretary of State for Social Services, in exercise of the powers conferred upon her by section 6(1) and (3) of the National Insurance Act 1974(a), and of all other powers enabling her in that behalf, and after consultation with the Council on Tribunals under section 10(1) of the Tribunals and Inquiries Act 1971 (b), hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations, which may be cited as the Social Security (Correction and Setting Aside of Decisions) Regulations 1975, shall come into operation on 12th May 1975.

(2) In these regulations unless the context otherwise requires—

"appeal" includes an application for leave to appeal and the reference of a decision under section 109 of the Social Security Act 1975(c) and "appealing" shall be construed accordingly;

"decision" means a decision given with respect to a claim or question arising under or in connection with any relevant enactment specified in section 6(1) of the National Insurance Act 1974 by a body or person authorised to decide the claim or question and "record of a decision" shall be construed accordingly;

"person interested in the decision" means any person to whom notice of the decision is required to be given under the statutory provisions relating to it and, if he is not such a person and is not the person who gave the decision, the Secretary of State.

(3) Any reference in these regulations to any provision made by or contained in any enactment or instrument shall, except in so far as the context otherwise requires, be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces.

(a) 1974 c. 14. (b) 1971 c. 62. (c) 1975 c. 14.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(a) shall apply for the purposes of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

Correction of accidental errors in decisions

2.—(1) Subject to regulation 4 of these regulations (common provisions), accidental errors in any decision or record of a decision may at any time be corrected by the body or person who gave the decision.

(2) A correction made to or to the record of a decision shall be deemed to be part of the decision or the record thereof and accordingly written notice thereof shall be given as soon as practicable to persons interested in the decision.

Setting aside of decisions on certain grounds

3.—(1) Subject to and in accordance with the provisions of this regulation and regulation 4 of these regulations (common provisions), on an application made by a person interested in the decision, a decision may be set aside by the body or person who gave the decision in a case where it appears just to set the decision aside on the ground that—

(*a*) a document relating to the proceedings in which the decision was given was not sent to, or was not received at an appropriate time by, a party to the proceedings or the party's representative or was not received at an appropriate time by the body or person who gave the decision, or

(*b*) a party to the proceedings in which the decision was given or the party's representative was not present at a hearing related to the proceedings.

(2) An application to set aside a decision under the foregoing paragraph of this regulation shall be in writing; shall state the grounds on which it is made; and shall not be entertained by the body or person who gave the decision unless the application is received at an office of the Department of Health and Social Security, or in the case of unemployment benefit either at such office or at an office of the Department of Employment, or at the office of the body or person who gave the decision, within 28 days from the date on which notice of the decision was given to the applicant or such further period as that body or person may for special reasons allow.

(3) Where an application to set aside a decision is entertained under paragraph (2) of this regulation, every person interested in the decision shall be sent a copy of the application and shall be afforded a reasonable opportunity of making representations on it before the application is determined.

(4) Notice in writing of a determination on an application to set aside a decision shall be given to persons interested in the decision as soon as may be practicable and the notice shall contain a statement giving the reasons for the determination.

(5) For the purposes of determining under these regulations an application to set aside a decision, there shall be disregarded any provision in a statutory instrument made under powers having effect under any relevant enactment specified in section 6(1) of the National Insurance Act 1974 to the effect that any notice or other document required or authorised to be given or sent to any person

(a) 1889 c. 63.

under the provisions of that instrument shall be deemed to have been given or sent if it was sent by post to that person at his ordinary or last known address.

Common provisions

4.—(1) These regulations shall apply to a decision given, or to the record of a decision made, before the date on which these regulations come into operation as well as to a decision given, or to the record of a decision made, on or after that date.

(2) In calculating any time for appealing against a decision, there shall be disregarded any day falling before the day on which notice was given of the correction of a decision or the record thereof pursuant to regulation 2 of these regulations or on which notice is given of a determination that a decision shall not be set aside following an application made under regulation 3 of these regulations, as the case may be.

(3) There shall be no appeal against a determination given under the provisions of regulation 2 or 3 of these regulations.

(4) Nothing in these regulations shall be construed as derogating from any power to correct errors or set aside decisions which is exercisable apart from these regulations.

(5) In the event of it being impracticable or of it being likely to cause undue delay for a decision or record of a decision to be dealt with pursuant to regulation 2 or 3 of these regulations by the body or person who gave the decision, another body or person of like status may so deal with it.

(6) Any power given by these regulations to extend the period during which anything is required to be done under these regulations may be exercised in any case, notwithstanding that the period during which the thing is required to be done has expired.

Signed by authority of the Secretary of State for Social Services,

Brian O'Malley,
Minister of State,
Department of Health and Social Security.

7th April 1975.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations make provision for the correction by the body or person who gave the decision of accidental errors in any decision or record of a decision given with respect to a claim or question arising under or in connection with social security enactments specified in section 6(1) of the National Insurance Act 1974.

The Regulations also provide for the setting aside of such a decision on specified grounds by the body or person who gave it where it appears just to do so and prescribe the procedure to be followed in implementing those provisions.

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