

1974 No. 2079

SOCIAL SECURITY

The Social Security (General Benefit) Regulations 1974

<i>Made - - - -</i>	<i>10th December 1974</i>
<i>Laid before Parliament</i>	<i>19th December 1974</i>
<i>Coming into Operation</i>	<i>6th April 1975</i>

The Secretary of State for Social Services, in exercise of powers conferred upon her by sections 32(3), 34(3), 35(4) and (5), 99(9) and 100(1) of the Social Security Act 1973(a) and paragraphs 2(1) and (2), 5, 7, 8(5) and 10 of Schedule 10 and paragraph 6 of Schedule 26 to that Act and by sections 81(3) and (4) of the National Insurance Act 1965(b) and of all other powers enabling her in that behalf, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (General Benefit) Regulations 1974 and shall come into operation on 6th April 1975.

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

“the Act” means the Social Security Act 1973;

“the 1965 Act” means the National Insurance Act 1965 and references to a section of that Act are to the section as set out in Part II of Schedule 21 to the Social Security Act 1973;

“the determining authority” means, as the case may require, an insurance officer, a local tribunal or a National Insurance Commissioner by whom the relevant question falls to be determined by virtue of section 84(5) of the Act;

“the standard rate of increase” means the amount specified in Part III of Schedule 4 to the Act as the amount of an increase of the benefit in question for an adult dependant;

and other expressions have the same meanings as in the Act.

(3) Unless the context otherwise requires, any reference in these regulations—

(a) to a numbered section or Schedule is to the section of or, as the case may be, the Schedule to the Act bearing that number;

(b) to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number;

(a) 1973 c. 38.

(b) 1965 c. 51; for the vesting of powers in the Secretary of State, see paragraph 1 of Schedule 21 to the Social Security Act 1973.

(c) any provision made by or contained in any enactment or instrument shall 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, or which may re-enact or replace it, with or without modification.

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

Increase of benefit for wife

2.—(1) For the purposes of an increase of unemployment benefit or sickness benefit under section 34(1) (increase of certain short-term benefits in respect of adult dependants) or of an increase of a Category A or Category C retirement pension or an invalidity pension under section 35(1) (increase of long-term benefit in respect of adult dependants) two spouses shall not be deemed to have ceased to reside together by reason of any absence of either or both of them while receiving medical or other treatment as an in-patient in a hospital or similar institution, notwithstanding that such absence is not temporary.

(2) The provisions of this regulation shall apply to absence commencing before as well as after the date on which these regulations come into operation.

Increase of certain benefits for female person having care of child

3.—(1) The conditions set out in paragraph (2) shall be the prescribed further conditions for the purposes of section 34(3)(c) (increase of unemployment or sickness benefit or a maternity allowance in respect of a female person, not being a child, who has the care of a child of the beneficiary's family).

(2) The said conditions are that during the period in question the female person concerned—

(a) has the care of a child of the beneficiary's family as specified in section 34(3)(c), being a child in respect of whom he is entitled to an increase of benefit or would be so entitled but for the provisions of any regulations for the time being in force under the Act relating to overlapping benefits; and

(b) either—

(i) is residing with the beneficiary, or

(ii) is employed by him in an employment in respect of which the weekly expenses incurred by the beneficiary are not less than the standard rate of increase and was so employed by him before he became unemployed or incapable of work, as the case may be, subject to the qualification that the condition of employment before that event shall not apply in a case where the necessity for her employment first arose thereafter, or

(iii) is a person to whose maintenance the beneficiary is contributing at a weekly rate not less than the standard rate of increase; and

(c) is not undergoing imprisonment or detention in legal custody; and

(d) is not employed in any employment (other than her employment by the beneficiary in caring for a child or children of the beneficiary's family) from which her weekly earnings (calculated or estimated in such manner

and on such basis as is prescribed for the purposes of section 34(1)) exceed the standard rate of increase, so however that this condition shall not apply to a person who is employed by the beneficiary and is not residing with him; and

- (e) is not absent from Great Britain, except in the case of sickness benefit for any period during which she is residing with the beneficiary outside Great Britain and for which, by virtue of the provisions of any regulations made under section 43, the beneficiary is not disqualified for receiving that benefit.

Increase of pension for female person having care of child

4.—(1) Section 35(3) (which provides for increases of a Category A or Category C retirement pension and an invalidity pension in respect of a female person, not being a child, who has the care of a child of the pensioner's family) shall not apply to any case where—

- (a) the pensioner is not entitled to an increase of a retirement pension or an invalidity pension, as the case may be, in respect of a child or children of his family or of a child or children treated as such for the purposes of section 31 (increases of benefit for child dependants) and would still not be so entitled if any regulations for the time being in force under the Act relating to overlapping benefits were disregarded; or
- (b) the said female person is not residing with the pensioner unless either—
 - (i) she is employed by him in an employment in respect of which the weekly expenses incurred by him are not less than the standard rate of increase, and either she was so employed by him before he became unemployed or incapable of work or retired from regular employment, as the case may be, or the necessity for her employment first arose thereafter, or
 - (ii) he is contributing to her maintenance at a weekly rate not less than the standard rate of increase and her earnings from any employment in which she is employed (other than her employment, if any, by him in caring for a child or children of his family) do not exceed that standard rate; or
- (c) the said female person is undergoing imprisonment or detention in legal custody; or
- (d) the said female person is absent from Great Britain, except for any period during which she is residing with him outside Great Britain and for which, by virtue of the provisions of any regulations made under section 43, he is not disqualified for receiving his pension.

(2) In a case to which section 35(3) applies and in which the female person is residing with the pensioner and the earnings of the female person (excluding her earnings, if any, from her employment by the pensioner in caring for a child or children of his family) for the calendar week ending last before any week for which the pensioner is entitled to the pension exceeded £13·00, the weekly rate of the increase of pension under section 35(3) shall for the last-mentioned week be reduced—

- (a) where the excess is less than £4·00, by 5 pence for each complete 10 pence of the excess, and
- (b) where the excess is not less than £4·00, by 5 pence for each complete 10 pence of the excess up to £4·00 and by 5 pence for each complete 5 pence of any further excess.

Provisions as to maintenance

5.—(1) Subject to paragraph (2), a beneficiary shall not for the purposes of Part I of the Act be deemed to be wholly or mainly maintaining another person unless the beneficiary—

- (a) when unemployed, or incapable of work, or, as the case may be, retired from regular employment, contributes towards the maintenance of that person an amount not less than the amount of increase of benefit received in respect of that person; and
- (b) when in employment, or not incapable of work, or, as the case may be, not so retired (except in a case where the dependency did not arise until after that time) contributed more than half of the actual cost of maintenance of that person.

(2) Where—

- (a) a person is partly maintained by each of 2 or more beneficiaries (being beneficiaries entitled to benefit under the Act or the Industrial Injuries Act) each of whom would be entitled to an increase of benefit in respect of that person if he were wholly or mainly maintaining that person, and
- (b) the contributions made by those 2 or more beneficiaries towards the maintenance of that person amount in the aggregate to sums which would, if they had been contributed by one of those beneficiaries, be sufficient to satisfy the requirements of this regulation,

that person shall for the purposes of the Act be deemed to be wholly or mainly maintained by that one of the said beneficiaries who makes the largest contribution or, if there is no such beneficiary, by the elder or eldest of the said beneficiaries, or, if a majority of them by notice in writing signed by them and addressed to the Secretary of State designate any one of their number, by that one designated so long as the beneficiary deemed to be so maintaining that person continues to be entitled to benefit under the Act and to satisfy the conditions contained in paragraph (1)(a).

(3) A notice and the designation contained in it given under paragraph (2) may be revoked at any time by a fresh notice signed by a majority of such beneficiaries, and another of their number may be designated, and accordingly the provisions of that paragraph shall apply to the one so last designated.

Contribution to maintenance of adult dependant

6.—(1) Subject to paragraphs (2) and (3), for the purposes of section 34(1) or 35(1) (increase of unemployment benefit, sickness benefit, an invalidity pension or a Category A or Category C retirement pension in respect of a wife) or of regulation 3(2)(b)(iii) or 4(1)(b)(ii) (increase of unemployment benefit, sickness benefit, an invalidity pension or a Category A or Category C retirement pension in respect of a female person having the care of a child of the beneficiary's family)—

- (a) a beneficiary shall not be deemed to satisfy the requirement contained in section 34(1) or 35(1) or regulation 3(2)(b)(iii) or 4(1)(b)(ii) that he is contributing to the maintenance of the wife or female person, as the case may be, at a weekly rate of not less than the standard rate of increase unless when in employment, or not incapable of work, or not retired from regular employment, as the case may be, (except in a case where the dependency did not arise until later) he contributed to her maintenance at a weekly rate of not less than the standard rate of increase;
- (b) in a case where an increase of benefit is, apart from the said requirement,

payable at a weekly rate less than the standard rate of increase, a beneficiary shall, subject to paragraph (a), be deemed to satisfy the said requirement if he is contributing to the maintenance of the wife or female person, as the case may be, at a weekly rate of not less than that of the increase.

(2) Where, within one month of having been entitled to an increase of unemployment or sickness benefit under section 34(1), or under section 34(2) by virtue of having satisfied the requirement in head (iii) of sub-paragraph (b) of regulation 3(2) (but no other requirement in that sub-paragraph), a person becomes entitled to a benefit which attracts a standard rate of increase higher than that of the benefit to which he had been entitled, he shall be deemed to satisfy the condition in paragraph (1)(a) if he satisfies it in relation to the benefit to which he had been entitled; and in this paragraph "entitled" includes deemed to have been entitled.

(3) For the purposes of paragraph (2) a person shall be deemed to have been entitled to an increase of unemployment benefit or sickness benefit at a lower standard rate of increase if (assuming satisfaction of the relevant contribution conditions) he would have been so entitled but for the provisions of section 34(1)(b) or, as the case may be, regulation 3(2)(d).

Children treated as included in a family for increase of certain benefits

7. For the purposes of section 32(3) (treating certain children as included in a man's family for the purpose of an increase of unemployment benefit, sickness benefit, an invalidity pension or a Category A or Category C retirement pension), the prescribed rate shall be a rate equal to the rate specified in Part III of Schedule 4 as the amount of an increase of unemployment or sickness benefit for each additional qualifying child.

Contribution towards cost of providing for child

8.—(1) Where, apart from section 33(1), a person is entitled to receive, in respect of a particular child who is, or who falls to be treated for the purposes of the relevant provision as, a child of that person's family, payment of an amount by way of a guardian's allowance under section 22 or of a child's special allowance under section 29 or of an increase under any of the provisions of section 31 of any benefit for any period, and neither of the conditions set out in section 33(1), that is to say—

- (a) that the child in question is living with the beneficiary; or
- (b) that the requisite contributions are being made to the cost of providing for the child,

is satisfied, that person shall nevertheless for the purposes of section 33(1) be deemed as respects that period to be making the contributions so required at a weekly rate not less than that required by that section if—

- (i) he gives an undertaking in writing to make such contributions, and
- (ii) on receiving the amount of the allowance or increase in question, he in fact makes such contributions;

so however that if in respect of any period he fails to make the contributions which he has undertaken to make in accordance with this regulation, the decision awarding the allowance or increase in question for that period in respect of that child shall be revised.

(2) Where, for the purposes of section 31, a beneficiary has a family which includes a child who is treated as included in his family only by virtue of the

provisions of section 32(3) (which child is hereafter in this paragraph referred to as a "treated child"), and there is another child living with the beneficiary who is included or treated as included in his family otherwise than by virtue of section 32(3) (which child is hereafter in this paragraph referred to as the "said other child"), that beneficiary shall, in relation to an increase of unemployment benefit, sickness benefit, invalidity benefit or a Category A or Category C retirement pension in respect of a treated child, be deemed to be contributing to the cost of providing for that child for the purposes of section 33(1)(b) at a weekly rate not less than that required in the case of that child by that section if he contributes to the cost of providing for that child at a rate not less than the rate which would be appropriate in the circumstances of the case if the said other child were older than the treated child, or, if there is more than one treated child, any of them.

Deeming benefit under the Act abated under section 16(1A) of the Supplementary Benefit Act 1966 to be a contribution for the maintenance of children or adult dependants

9. Where for any period a person (in this regulation referred to as A) is entitled to, or to an increase in the amount of, any such benefit, allowance or pension as is mentioned in section 16(1)(a) of the Supplementary Benefit Act 1966(a) (benefits, allowances and pensions under the National Insurance Acts 1965 to 1971) in respect of another person (in this regulation referred to as B) and the amount of, or of the increase in, any such benefit, allowance or pension is abated under the provisions of section 16(1A) of the said Act of 1966 (further provision for preventing duplication of supplementary and other benefits), then in determining for the purposes of the Act whether A is wholly or mainly maintaining, or is contributing at any weekly rate to the maintenance of, or has been contributing at any weekly rate to the cost of providing for, B, the amount by which such benefit, allowance or pension for any week has been so abated shall be deemed to be a contribution of that amount for that week made by A for the maintenance of B.

Allocation of contributions for wife or children

10.—(1) Subject to the provisions of this regulation, any sum or sums paid by a person by way of contribution towards either the cost of providing for one or more children to whom this regulation refers or the maintenance of his wife or both, shall be treated for the purposes of sections 29(c)(i), 32(3), 33(1)(b), 34(1)(a)(ii) and 35(1)(b) as such contributions, of such respective amounts equal in the aggregate to the sum or sums in question, in respect of such of the persons hereinafter mentioned, that is to say, his wife or any child or children to whom this regulation refers, as may be determined by the determining authority so as to secure as large a payment as possible by way of benefit in respect of dependants.

(2) A sum paid by way of contribution towards the maintenance of a wife shall not be treated by virtue of this regulation as a sum paid by way of contribution towards the cost of providing for a child or children, and a sum paid by way of contribution towards the cost of providing for a child or children shall not be so treated as a sum paid by way of contribution towards the maintenance of a wife, unless in either case the child or children is or are included in the family of the wife or though not so included could have been treated under paragraph 3 of the Schedule to the Family Allowances Act 1965(b) as so included.

(a) 1966 c. 20 (enacted as the Ministry of Social Security Act 1966).

(b) 1965 c. 53.

(3) Except for the purposes of section 29(c)(i) (child's special allowance), the children to whom this regulation refers are children who, in the period for which the sum in question is paid by the person, either are included in that person's family or though not so included could have been treated under paragraph 3 of the Schedule to the Family Allowances Act 1965 as so included, or would have been, or could have been treated under that paragraph as, so included had the person contributed to the cost of providing for the child at a sufficient weekly rate.

(4) For the purposes of section 29(c)(i)—

- (a) the children to whom this regulation refers are any such children as are mentioned in section 29(b);
- (b) a determination made under paragraph (1) in order to ascertain the weekly rate at which the husband had before his death been contributing to the cost of providing for a child may be varied on review from time to time by the determining authority so often as may be necessary to secure as large a payment as possible by way of the child's special allowance, so however that no such review shall affect entitlement in respect of any period before the date of the review; and
- (c) a child shall be deemed to satisfy the condition contained in paragraph (2) if he would have satisfied it but for the fact that he was not then in Great Britain.

Exceptions from disqualification for imprisonment, etc.

11.—(1) The following provisions of this regulation shall have effect to except benefit from the operation of those provisions of paragraph 2(1) of Schedule 10 which provide that (except where regulations otherwise provide) a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person is undergoing imprisonment or detention in legal custody (hereafter in this regulation referred to as "the said provisions").

(2) The said provisions shall not operate to disqualify a person for receiving a guardian's allowance.

(3) The said provisions shall not operate to disqualify a person for receiving sickness benefit, invalidity benefit, widow's benefit, a child's special allowance, a maternity allowance, a retirement pension of any category or an age addition, or to make an increase of benefit not payable in respect of a person, for any period during which that person is undergoing imprisonment or detention in legal custody in connection with a charge brought or intended to be brought against him in criminal proceedings or pursuant to any sentence or order for detention made by a court in such proceedings unless, in relation to him, a penalty is imposed at the conclusion of those proceedings or, in the case of default of payment of a sum adjudged to be paid on conviction, a penalty is imposed in respect of such default.

(4) The said provisions shall not operate to disqualify a person for receiving any benefit (not being a guardian's allowance), or to make an increase of benefit not payable in respect of a person, for any period during which that person is undergoing detention in legal custody after the conclusion of criminal proceedings if it is a period during which he is liable to be detained in a hospital or similar institution in Great Britain as a person suffering from mental disorder unless—

- (a) pursuant to any sentence or order for detention made by the court at the conclusion of those proceedings, he has undergone detention by way of penalty in a prison, a detention centre, a borstal institution or a young offenders institution; and
- (b) he was removed to the hospital or similar institution while liable to be detained as a result of that sentence or order, and, in the case of a person who is liable to be detained in the hospital or similar institution by virtue of any provision of the Mental Health Act 1959(a) or the Mental Health (Scotland) Act 1960(b), a direction restricting his discharge has been given under either of those Acts and is still in force.
- (5) Where, as respects a person in relation to whom each of the conditions specified in paragraph (4)(a) and (b) is satisfied, a certificate given by or on behalf of the Secretary of State for the Home Department or the Secretary of State for Scotland and furnished to the Secretary of State for Social Services shows the earliest date on which that person would have been expected to be discharged from detention pursuant to the said sentence or order if he had not been transferred to a hospital or similar institution, the said conditions shall be deemed not to be satisfied in relation to that person as from the day next following that date.
- (6) For the purposes of this regulation—
- (a) “court” means any court in the United Kingdom, the Channel Islands or the Isle of Man or in any place to which the Colonial Prisoners Removal Act 1884(c) applies or any naval court-martial, army court-martial or air force court-martial within the meaning of the Courts-Martial (Appeals) Act 1968(d), or the Courts-Martial Appeal Court;
- (b) “hospital or similar institution” means any place (not being a prison, a detention centre, a borstal institution, a young offenders institution or a remand centre, and not being at or in any such place) in which persons suffering from mental disorder are or may be received for care or treatment;
- (c) “penalty” means a sentence of imprisonment, borstal training, or detention under section 53 of the Children and Young Persons Act 1933(e) or under section 57 of the Children and Young Persons (Scotland) Act 1937(f) or under section 1(4) of the Criminal Justice (Scotland) Act 1963(g) or an order for detention in a detention centre;
- (d) in relation to a person who is liable to be detained in Great Britain as a result of any order made under the Colonial Prisoners Removal Act 1884, references to a prison shall be construed as including references to a prison within the meaning of that Act;
- (e) a person who is liable to be detained by virtue of any provision of the Mental Health Act 1959 or the Mental Health (Scotland) Act 1960 shall be treated as if a direction restricting his discharge had been given under those Acts if he is to be so treated for the purposes of either of those Acts;
- (f) references to mental disorder shall be construed as including references to any mental disorder within the meaning of the Mental Health Act 1959 or the Mental Health (Scotland) Act 1960;
- (g) criminal proceedings against any person shall be deemed to be concluded upon his being found insane in those proceedings so that he cannot be tried or his trial cannot proceed.

(a) 1959 c. 72.
 (c) 1884 c. 31.
 (e) 1933 c. 12.
 (g) 1963 c. 39.

(b) 1960 c. 61.
 (d) 1968 c. 20.
 (f) 1937 c. 37.

Suspension of payment of benefit during imprisonment, etc.

12.—(1) Subject to the following provisions of this regulation, the payment to any person of any benefit—

(a) which is excepted from the operation of paragraph 2(1) of Schedule 10 to the Act by virtue of the provisions of regulation 11(2) or (3); or

(b) which is payable otherwise than in respect of a period during which he is undergoing imprisonment or detention in legal custody;

shall be suspended while that person is undergoing imprisonment or detention in legal custody.

(2) Paragraph (1) shall not operate to require the payment of any benefit to be suspended while the beneficiary is liable to be detained in a hospital or similar institution as defined in regulation 11(6)(b) during a period for which, in his case, benefit to which regulation 11(4) applies is or would be excepted from the operation of the said paragraph 2(1) by virtue of the provision of regulation 11(4).

(3) A guardian's allowance or any benefit to which paragraph (1)(b) applies may nevertheless be paid while the beneficiary is undergoing imprisonment or detention in legal custody to any person appointed for the purpose by the Secretary of State to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Secretary of State and the National Insurance Fund for any sum so paid.

Interim payments, arrears and repayments

13.—(1) Subject to the provisions of this regulation, benefit shall be payable in accordance with an award, notwithstanding that an appeal against the award is pending, and (subject also to the provisions of section 81 of the 1965 Act, paragraphs 4 to 6 of Schedule 10 to the Social Security Act 1973, regulation 16 of the National Insurance (Determination of Claims and Questions) (No. 2) Regulations 1967(a), as amended (b), and regulation 14 below) shall be treated as having been duly paid and shall not be recoverable under the provisions of the Act or otherwise.

(2) Where notice of an appeal by an insurance officer to the National Insurance Commissioner from an award of a local tribunal is given or sent to the claimant within 21 days of the date on which an insurance officer received the record of the decision of the local tribunal, payment of the benefit (or that part of the benefit) to which the appeal relates shall, in the case of any of the following benefits, be suspended until the appeal has been determined:—

(a) unemployment benefit, provided the ground of the appeal is that the claimant ought to be disqualified for receiving benefit by reason of the provisions of section 14(1) (disqualification for unemployment benefit in respect of unemployment due to a trade dispute); and

(b) maternity benefit, widow's benefit, an attendance allowance, a child's special allowance, a guardian's allowance, a retirement pension of any category or an age addition.

(3) Where a person who has received unemployment benefit in respect of certain days in a period of interruption of employment is subsequently awarded

(a) S.I. 1967/1570 (1967 III, p. 4350).

(b) There is no amendment which relates expressly to the subject matter of these regulations.

unemployment benefit in respect of earlier days in the same period and by virtue of section 13(1) (exhaustion of unemployment benefit) benefit would become overpaid if the benefit due under the subsequent award were paid—

- (a) the benefit which would become overpaid shall be treated as having been paid in respect of an earlier period within that same period of interruption of employment, and the amount due to be paid under the subsequent award shall be reduced accordingly; and
- (b) for the purposes of section 13(2) (requalification for benefit) the last day for which the person concerned was entitled to benefit shall be the last day in respect of which, under the provisions of sub-paragraph (a) above, benefit is treated as having been paid.

(4) Where on appeal or review a decision is reversed or varied or revised and by reason thereof any sum on account of unemployment benefit is shown to have been paid to any person in respect of days for which he was not entitled to it, then, in determining for the purposes of section 13—

- (a) whether that person has exhausted his right to that benefit and what is the last day for which he was entitled to it—
 - (i) any day for which any such sum has been so paid in pursuance of the original decision shall be treated as if it was a day for which that person was entitled to that benefit notwithstanding that that day is not treated as a day of unemployment because the person concerned is disqualified for receiving that benefit,
 - (ii) where any sum has been so paid to such a person and that sum or any part thereof is recovered, then there shall be excluded for the purposes of the said determination under the said section 13 a number of days (to the nearest whole number) equal to the number to be obtained by dividing the amount recovered by the daily rate at which the benefit was paid;
- (b) whether that person has requalified for benefit under the provisions of section 13(2), the last day for which he was entitled to the benefit shall be the last day in respect of which under sub-paragraph (a) above he is treated as having been entitled to it.

(5) The provisions of paragraph (3) of this regulation shall apply to earnings-related supplement payable by way of an increase of unemployment benefit or sickness benefit under section 10(8) or a maternity allowance under section 17(4), with the following modifications—

- (a) earnings-related supplement of any one of those benefits may be treated as paid on account of any other of them; and
- (b) where any person makes 2 or more claims for benefit in respect of different periods in the same (or what, but for section 13(3) would have been the same) period of interruption of employment, and at the date when a claim in respect of any of those different periods is determined, or the decision in respect thereof is revised, in favour of that person by the determining authority, an increase of benefit by way of earnings-related supplement under the said section 10(8) or 17(4) has been received by him in respect of any days in the said period of interruption of employment subsequent to the days to which that determination or the said revised decision relates, then, if it is shown that by reason of section 10(8) or 17(4) (limitation of earnings-related supplement to 156 days in the same period of interruption of employment) benefit would be overpaid if the increase of such benefit payable under the said determination

or the said revised decision were paid, only the provisions of paragraph (3)(a) shall apply to such benefit.

(6) Where a sum on account of earnings-related supplement is shown to have been paid to any person for days for which he was not entitled thereto, then, in determining for the purposes of sections 10(8) and 17(4) whether that person has been entitled to the supplement in respect of an aggregate of 156 days, any days for which any such sum has been so paid shall be treated as if they were days for which that person was entitled to the supplement, except that if that sum or any part thereof is recovered there shall be excluded a number of days (to the nearest whole number) equal to the number obtained by dividing the amount recovered by the daily rate at which the supplement was paid.

(7) Where—

- (a) on appeal against an award of benefit, a decision is reversed or varied so that such benefit is not payable or is payable at a lower rate; and
- (b) on review, the decision on that appeal is revised so as to make such benefit payable, or payable at a higher rate, from a date before the decision on appeal,

any benefit paid in pursuance of the award before the decision in appeal shall, to the extent to which it would not have been payable if the decision on appeal had been given in the first instance, be treated as having been paid on account of any benefit made payable for the same period by the decision on review, except in so far as it has, in pursuance of the decision on appeal, been repaid or treated as paid on account of the benefit awarded by that decision.

(8) Where, in accordance with a decision given on a review or appeal, any benefit is required to be repaid to the Secretary of State or, as the case may be, to a local authority, then, without prejudice to any other method of recovery, such benefit shall be recoverable by deduction from any benefit then or thereafter payable to the person by whom it is to be repaid or any persons entitled to receive his benefit on his death.

(9) Where—

- (a) by virtue of section 81 of the 1965 Act (recovery and repayment of benefit wrongly paid) a decision given on appeal or review requires repayment of unemployment benefit to the Secretary of State; and
- (b) such benefit has been received from a local education authority administering unemployment benefit by virtue of section 11 of the Employment and Training Act 1948(a),

that requirement shall have effect as if it were a requirement to repay such benefit to the Secretary of State or, as the case may be, to the local education authority.

(10) Where, under arrangements made by the Secretary of State with the consent of the Treasury for the purpose of dealing with any emergency, payment by way of unemployment benefit or, as the case may be, sickness benefit, invalidity benefit or maternity benefit has been made to any person pending the determination of a claim for it, without due proof of the fulfilment of the relevant conditions or otherwise than in accordance with the provisions of the Act and the orders and regulations made thereunder, the payment so made shall for the purposes of the said provisions be deemed to be a payment of such benefit duly made.

(11) Paragraph (10) shall apply without prejudice to the operation of regulation 14, and in a case in which the conditions for the receipt of any such benefit were not fulfilled and in so far as set-off under that regulation against payment of such benefit is not made, it shall apply subject to the following provisions—

- (a) if it is shown at any time to the satisfaction of the determining authority that in the obtaining and receipt of such a payment the person to whom it has been made, or any person acting for him, has not throughout used due care and diligence to avoid overpayment, he shall be liable to repay to the Secretary of State any sum so paid; and
- (b) if it is so shown that any such person was entitled to some benefit other than unemployment benefit or, as the case may be, sickness benefit or maternity benefit for the period in respect of which the payment was made, such payment (in so far as it does not exceed the amount of such other benefit) shall not be deemed to be a payment of the benefit in question, but a payment of such other benefit duly made.

(12) In this regulation, “local education authority” in relation to Scotland means an education authority as defined in section 145(16) of the Education (Scotland) Act 1962(a).

Set-off of benefit against earlier payment of dependency benefit

14. Benefit under the Act or the Industrial Injuries Act paid to one person in respect of another as being a child of the family, or the wife or husband, or an adult dependant of the first-mentioned person shall, unless it is required to be repaid, be treated as having been properly paid for any period for which it is not in fact payable in cases where under a subsequent decision either—

- (a) that other person is himself entitled to benefit under either of those Acts for that period; or
- (b) a third person is entitled to benefit under either of those Acts for that period in respect of that other person in priority to the first-mentioned person,

and any arrears of benefit payable for that period by virtue of the subsequent decision shall be reduced or withheld accordingly.

Disqualifications to be disregarded for certain purposes

15.—(1) Subject to paragraph (2), where a person of any class mentioned in column (1) of the Schedule to these regulations would be entitled to the benefit set opposite that class in column (2) of that Schedule but for the operation of any provision of the Act disqualifying him for the receipt of that benefit, that person shall be treated as if entitled to that benefit for the purpose of the provisions of the Act set opposite thereto in column (3) of the said Schedule and of any regulations made thereunder; so however that a person shall not be so treated, for the purpose of that provision of section 32(4) which relates to priority of title between husband and wife in relation to an increase of retirement pension for a child, if that person is disqualified for receiving such increase by reason of the provisions of paragraph 2(1)(b) of Schedule 10.

(2) For the purposes of determining whether the condition contained in paragraph 1(1) of Schedule 10 (which makes a claim a condition of any person's right to any benefit) is satisfied, a person who would be entitled to any benefit but for the operation of any provision of the Act disqualifying him for the

receipt of it, and who ceases to be so disqualified within a period of 3 months from the commencement of the disqualification, shall be treated as if entitled to it.

Rounding of sums payable by way of benefit under Part I of the Act

16. Where payment falls to be made of a sum payable by way of benefit under Part I of the Act and that sum is not a penny or a multiple thereof, the sum payable shall be paid by rounding the payment to the nearest penny, a half penny being rounded to the next penny above.

10th December 1974.

Barbara Castle,
Secretary of State for Social Services.

THE SCHEDULE

Regulation 15

Provisions for the purpose of which disqualifications under the Act are to be disregarded

Class of persons (1)	Benefit for which person is disqualified (2)	Section of the Act for the purpose of which disqualification is to be disregarded (3)	Subject matter (4)
A widow	Widow's allowance	20(3)	Period for which a widowed mother's allowance is payable (being a period for which she is not entitled to a widow's allowance).
	Widow's allowance or widowed mother's allowance	21(3)	Period for which a widow's pension is payable (being a period for which she is not entitled to a widow's allowance or a widowed mother's allowance).
	Widowed mother's allowance	21(1)(b)	Widow's pension for certain widows ceasing to be entitled to widowed mother's allowance.
The husband of a widow	Category A retirement pension	19(1)(a)	Widow's allowance for widow of husband who at the date of his death was not entitled to a Category A retirement pension.
One of two spouses	Increase of retirement pension for a child	32(4)	Priority of title between husband and wife to increase of retirement pension for a child.

In this Schedule "widowed mother's allowance" and "widow's pension" include benefit under section 27(4) corresponding to a widowed mother's allowance and a widow's pension respectively.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations contain miscellaneous provisions of a general character affecting benefits under the Social Security Act 1973. The provisions relate to treating spouses in hospital as if they were residing together (regulation 2); the increase of benefits in respect of a female person having the care of a child (regulations 3 and 4); the circumstances in which a person shall be deemed to be wholly or mainly maintaining another person, or satisfying the requirements of the Act with regard to contributions to the maintenance of another person (regulations 5 to 10); benefit for persons in legal custody and suspension of that benefit (regulations 11 and 12); interim payments, arrears and repayments of benefit and set-off of dependency benefit (regulations 13 and 14); the disregarding of disqualifications for benefit for certain purposes (regulation 15); and rounding payable amounts to a whole penny (regulation 16).

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