
STATUTORY INSTRUMENTS

1977 No. 1509

SOCIAL SECURITY

**The Social Security (Miscellaneous
Amendments) Regulations 1977**

<i>Made</i>	- - - -	<i>8th September 1977</i>
<i>Laid before Parliament</i>		<i>12th September 1977</i>
<i>Coming into Operation</i>		<i>3rd October 1977</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 28(4)(b), 30(3), 33, 44(3)(b), 47(1)(b), 49, 79(2)(a), 131 and 168(1) of the Social Security Act 1975 and Schedule 20 of that Act as amended by paragraph 38 of Schedule 4 to the Child Benefit Act 1975 and of all other powers enabling him in that behalf, after reference to the National Insurance Advisory Committee, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 1977 and shall come into operation on 3rd October 1977.

(2) Each provision of these regulations which amends other regulations shall be construed as one with the regulations which it amends.

(3) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889 shall apply in relation to this instrument and in relation to any revocation effected by it as if this instrument and the regulations revoked by it were Acts of Parliament, and as if each revocation were a repeal.

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974

2.—(1) The Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974 (1), as amended(2), shall be further amended in accordance with the following provisions of this regulation.

(2) In regulation 2 (election to be treated as not having retired)—

(a) in paragraph (4) for the reference to “ paragraph (5)” there shall be substituted a reference to “paragraphs (5) and (6)” ;

(1) (1974 III, p. 8028).

(2) The relevant amending instrument is S.I. 1975/566 (1975 I, p. 2082).

(b) after paragraph (5) there shall be added the following paragraph:—

“(6) In a case to which section 29(12) of the Social Security Act 1975 (days of increment in relation to a woman entitled to Category B retirement pension who has made an election in accordance with this regulation and has not revoked it) applies, for the purposes only of the said section 29(12), where the woman is entitled to such a retirement pension under section 29(4) of that Act and makes such an election on or after 3rd October 1977, the said section 29(12) shall be modified so that her election shall be treated as if it had effect from 6th April 1975 or, if later, the date of the death of her husband by virtue of whose contributions she is so entitled.”.

(3) In regulation 4 (days to be treated as days of increment)—

(a) after paragraph (1)(b)(iii) there shall be inserted the following:—

“or (iv) non-contributory invalidity pension or invalid care allowance”

(b) in paragraph (2) the words from and including “received any of the following benefits” to the end shall be deleted;

(c) after paragraph (2) there shall be added the following paragraphs:—

“(3) Subject to the following paragraph, for the purposes of this regulation, where in respect of any day—

(a) a person has received one or more of the benefits mentioned in paragraph (1) (b); and

(b) either—

(i) the determining authority or, as the case may be, the Secretary of State, has determined that in respect of that day he was not entitled to that benefit; or

(ii) by virtue of the provisions of the Employment Protection (Recoupment of Unemployment Benefit and Supplementary Benefit) Regulations 1977(3) the Secretary of State has recovered from that person's employer sums on account of unemployment benefit received by that person in respect of that day; and

(c) the whole of the benefit or sum on account of benefit in respect of that day has been repaid or, as the case may be, recovered before the relevant date,

that day shall be treated as a day in respect of which he did not receive that benefit; and in this paragraph “relevant date” means—

(i) in the case of Category A retirement pension, the date of retirement of the person entitled to it,

(ii) in the case of Category B retirement pension payable to a wife by virtue of her husband's contributions, the date of retirement of her husband, or

(iii) in the case of Category B retirement pension payable to a widow by virtue of her late husband's contributions, the date of his death.

(4) Where the benefit or sum on account of benefit in respect of a day to which paragraph (3)(a) and (b) applies is repaid or, as the case may be, recovered on or after the said relevant date that day shall not be treated as a day in respect of which that person did not receive that benefit until benefit has been repaid or, as the case may be, sums on account of benefit have been recovered in respect of all the days to which those sub-paragraphs relate falling within the period to which this regulation applies”.

Amendment of the Social Security (Maternity Benefit) Regulations 1975 and the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1975

3.—(1) In regulation 11 of the Social Security (Maternity Benefit) Regulations 1975(4) (special provision for certain persons who have been employed abroad) in paragraph (1) for the words from “Subject to the following paragraph” to “absent from Great Britain and” there shall be substituted the words “The following provisions of this regulation shall apply for the purposes of maternity benefit (but not for the purposes of earnings-related supplement of maternity allowance) where a person”.

(2) In regulation 18 of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1975(5) (special provision for certain persons who have been employed abroad) in paragraph (1) for the words from “Subject to the following paragraphs” to “absent from Great Britain and” there shall be substituted the words “The following provisions of this regulation shall apply for the purposes of unemployment benefit and sickness benefit (but not for the purposes of earnings-related supplement of either of those benefits) where a person”.

(3) In the said regulation 11 and the said regulation 18, for that part of paragraph (1) of each regulation from the beginning of sub-paragraph (a) to the end of the paragraph there shall be substituted the following provisions:—

- “(a) has been absent from Great Britain;
- (b) has returned to Great Britain; and
- (c) throughout the whole period of his absence was ordinarily resident in Great Britain.

and in this regulation “a person” shall mean such a person.”.

(4) In the said regulation 11 and the said regulation 18, for paragraphs (2) to (6) of each regulation there shall be substituted the following provisions:—

“(2) Where a person has paid Class 1 contributions at the standard rate under the Act either—

- (a) to the full extent of his liability under regulation 114 of the Social Security (Contributions) Regulations 1975(6); or
- (b) in respect of the first 52 weeks of his employment abroad by virtue of either—
 - (i) an Order in Council made under section 143 (reciprocity with countries outside the United Kingdom), or
 - (ii) Council Regulation No. 1408/71/EEC(7) (application of social security schemes to employed persons and their families moving within the Community),

and the employment by reference to which his liability mentioned in sub-paragraph (a) or (b), as the case may be, arose continued throughout the first 52 weeks after the commencement of that liability, he shall be treated as having paid Class 1 contributions on earnings at the lower earnings limit for the relevant tax year for any weeks between the end of that liability and the date of his return to Great Britain which are relevant to his claim.

(3) Where—

- (a) a person would have been liable to pay Class 1 contributions at the standard rate under the said regulation 114 but for the provisions of an Order in Council made under section 143;

(4) (1975 I, p. 1910)

(5) (1975 I, p. 2062.)

(6) S.I. 1975/492 (1975 I, p. 1516).

(7) O.J. No. L149, 5.7.71, p. 2. (O.J.S.E. 1971 (II) p. 416).

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more***

- (b) in relation to his case that Order does not provide for periods of insurance, employment or residence in the other country to which that order relates to be taken into account in determining title to benefit, and
- (c) the employment by reference to which he would have been liable under the said regulation 114 continued throughout the first 52 weeks,

he shall be treated as having paid Class 1 contributions on earnings at the lower earnings limit for the relevant tax year for each week of his absence.

(4) Where—

- (a) a person would have been liable to pay Class 1 contributions at the standard rate under the said regulation 114 but for the provisions of either an Order in Council made under section 143 or Council Regulation No. 1408/71/EEC;
- (b) the employment by reference to which he would have been liable under the said regulation 114 continued throughout the first 52 weeks from the time that that liability would have commenced; and
- (c) that Order or Council Regulation, as the case may be, provides for aggregation of periods of insurance, employment or residence only if an insurance period has been completed since his return to Great Britain, and an insurance period has not been so completed,

any period of insurance, employment or, as the case may be, residence in the other country to which that Order or Council Regulation, as the case may be, relates which falls in the relevant tax year and which could be taken into account in determining entitlement to benefit if an insurance period had been completed since his return to Great Britain shall be treated as a period in respect of which class 1 contributions on earnings at the lower earnings limit for that tax year had been paid.

(5) Paragraphs (2) (except in a case to which paragraph (2)(a) applies), (3) and (4) shall not apply in relation to benefit to which this regulation applies for any day in respect of which the person concerned is entitled to a corresponding benefit under the social security scheme of the country in which he was employed.

(6) Where a person satisfies the requirements of paragraph (3)(a) or (4)(a) but the relevant employment did not continue for 52 weeks, he shall be treated as having paid Class 1 contributions on earnings at the lower earnings limit for the relevant tax year for each week for which it did continue.

(7) Where a person to whom regulation 3 of the National Insurance (Residence and Persons Abroad) Regulations 1948⁽⁸⁾, as amended⁽⁹⁾, applies—

- (a) has paid contributions to the full extent of his liability under that regulation; and
- (b) has paid or has had credited to him 45 contributions of any Class under the National Insurance Act 1965 during each contribution year from the year in which his liability ceased until the last contribution year relevant to him which ended before 5th April 1975 (inclusive of both these years),

paragraph (2) shall apply to him, notwithstanding paragraph (2)(a), as if the reference to his liability were a reference to his liability under the said regulation 3.

(8) Paragraph (2) shall not apply to any case where the employment which gave rise to the liability mentioned in sub-paragraph (a) of that paragraph commenced before 6th April

⁽⁸⁾ S.I. 1948/1275 (Rev.XVI, p. 88: 1948 I, p. 2864).

⁽⁹⁾ The relevant amending instruments are S.I. 1950/1946, 1958/1084, 1960/1210 (1950 II, p. 27; 1958 II, p. 1581; 1960, p. 2234).

1975 unless the person concerned paid contributions under the said Act of 1965 to the full extent of his liability under the said regulation 3.”.

Amendment of the Social Security (Claims and Payments) Regulations 1975

4. In the (1975 I, p. 2014) Social Security (Claims and Payments) Regulations 1975(10), as amended(11), in regulation 3 (claims not required in certain cases), after paragraph (c) there shall be added the following paragraph:—

- “(d) in the case of a Category A or B retirement pension—
- (i) to any woman over the age of 65 on her ceasing to be entitled to widowed mother's allowance, or
 - (ii) to any woman in receipt of widow's pension on her attaining the age of 65.”.

Amendment of the Social Security Benefits (Dependency) Regulations 1977

5.—(1) The Social Security Benefit (Dependency) Regulations 1977 (12), as amended(13), shall be further amended in accordance with the following provisions of this regulation.

(2) For regulation 14 (increase of maternity allowance where contribution conditions are not satisfied in full), there shall be substituted the following regulation:—

“Increase of short-term benefits where contribution conditions are not satisfied in full

14. Where benefit is payable at a reduced rate by virtue of—

- (a) in the case of maternity allowance, regulation 8 of the Social Security (Maternity Benefit) Regulations 1975(14);
- (b) in the case of unemployment or sickness benefit, regulation 14 of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1975(15)

the amount of any increase of those benefits shall be—

- (c) in the case of an increase under section 41 (child dependents), the same as if both the relevant contribution conditions were satisfied;
- (d) in the case of an increase under section 44 (adult dependants), a percentage of the amount specified in relation to the benefit in question in column (3) of Part IV of Schedule 4 to the Act, the percentage being the same as that ascertained under paragraph (2) of the said regulation 8 or 14, as the case may be”.

(3) After regulation 15 there shall be inserted the following regulation:—

“Transitional provision relating to child dependency benefit for children receiving advanced education

15A.—(1) For the purpose of determining whether a person is entitled to receive child dependency benefit in respect of a child receiving advanced education after 2nd October 1977, where—

(10) (1975 I, p. 2014).

(11) The relevant amending instrument is S.I. 1976/1736 (1976 III, p. 4596).

(12) (1977 I, p. 1057).

(13) There is no amendment relevant to the subject matter of this regulation.

(14) S.I. 1975/553 (1975 I, p. 1910).

(15) S.I. 1975/564 (1975 I, p. 2062).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format. The electronic version of this UK Statutory Instrument has been contributed by Westlaw and is taken from the printed publication. **Read more**

- (a) that person has been entitled to receive child dependency benefit in respect of the child in respect of 31st December and for not less than 34 weeks in the period beginning on 31st December 1976 and ending on 2nd October 1977; and
 - (b) the child had commenced advanced education before 1st January 1977,
- if for a continuous period beginning on 3rd October 1977 he—
- (i) would have been entitled to receive child dependency benefit in respect of the child had he been entitled or (apart from this regulation) treated as if he were entitled to child benefit in respect of the child; and
 - (ii) would have been entitled or (apart from this regulation) treated as if he were entitled to child benefit in respect of the child had any education which the child is receiving not been advanced education.

he shall for that period be treated as if he were entitled to child benefit in respect of the child.

(2) In this regulation—

- (a) “advanced education” has the same meaning as in regulation 1(2) of the Child Benefit (General) Regulations 1976⁽¹⁶⁾, as amended⁽¹⁷⁾;
- (b) “child dependency benefit” means a benefit or an allowance or an increase of a benefit or an allowance under the Act in respect of a child, not being an increase of unemployment benefit; and
- (c) “week” means a period of 7 days beginning with midnight between Saturday and Sunday”

(4) In Part II of Schedule 2 (prescribed circumstances for increase of invalid care allowance for adult dependants), in paragraph 7(b) at the end of heads (i), (ii), and (iii) the word “or” shall be deleted.

Revocations

6. In the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1975 ⁽¹⁸⁾ regulation 14(3) and the Schedule are hereby revoked.

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

Stanley Orme
Minister for Social Security
Department of Health and Social Security

8th September 1977

⁽¹⁶⁾ S.I. 1976/965 (1976 II, p. 2529).

⁽¹⁷⁾ The relevant amending instrument is S.I. 1977/534 (1977 I, p. 1762).

⁽¹⁸⁾ (1975 I, p. 2062).

EXPLANATORY NOTE

These Regulations contain miscellaneous amendments to regulations made, or having effect as made, under the Social Security Act 1975.

Regulation 2 amends provisions in the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974 relating to days of increment. Regulation 3 amends special provisions in the Social Security (Maternity Benefit) Regulations 1975 and the Social Security (Unemployments, Sickness and Invalidity Benefit) Regulations 1975 for certain persons who have been employed abroad. Regulation 4 amends the Social Security (Claims and Payments) Regulations 1975 so as to prescribe circumstances in which Category A or B retirement pension may be paid without a claim to a woman over the age of 65 on her ceasing to be entitled to widow's benefit. Regulation 5 amends the Social Security Benefit (Dependency) Regulations 1977 so as to consolidate provisions relating to increases of short term benefit payable at a reduced rate where contribution conditions are only partially satisfied and inserts a transitional provision relating to child dependency benefit for children receiving advanced education. The regulations also contain drafting amendments and revocations.