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 STATUTORY INSTRUMENTS
 

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1979 No. 359

## SOCIAL SECURITY

**The Social Security (Overlapping Benefits and  
Miscellaneous Amendments) Regulations 1979**

<i>Made</i> - - - -	26th March 1979
<i>Laid before Parliament</i>	26th March 1979
<i>Coming into Operation</i>	6th April 1979

The Secretary of State for Social Services in exercise of the powers conferred on him by sections 3(2), 66(3) and 85 of the Social Security Act 1975(a) and of all other powers enabling him in that behalf, without having referred any proposals on the matter to the National Insurance Advisory Committee since it appears to him that by reason of urgency it is inexpedient to do so, hereby makes the following regulations:—

*Citation and commencement*

1. These regulations may be cited as the Social Security (Overlapping Benefits and Miscellaneous Amendments) Regulations 1979 and shall come into operation on 6th April 1979.

*Amendment of regulation 2 of the Social Security (Overlapping Benefits) Regulations 1975*

2. Regulation 2(4) of the Social Security (Overlapping Benefits) Regulations 1975(b) (hereinafter referred to as “the principal regulations”) shall be amended by substituting for the words “of section 6 of the Pensions Act”, the words “of the Act or the Pensions Act shall be deemed to include any increase so far as attributable to any additional component or to any increase by virtue of section 126A of the Act or paragraph 4A of Schedule 1 to the Pensions Act or to any increase of graduated retirement benefit, and”.

*Amendment of regulation 3 of the principal regulations*

3. Regulation 3(3A) of the principal regulations (adjustment of personal benefit under Chapters I and II of Part II of the Act where other personal benefit under those Chapters is payable) shall be amended by deleting the words “increase of benefit” and substituting the words “increase of benefit, or, in a case where the person entitled to receive the benefits is over pensionable age and one or more of the benefits includes either additional component or graduated retirement benefit while another of the benefits is payable at the rate referred to in section 14(6) or 15(4) of the Act, then the following provisions shall apply—”.

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(a) 1975 c. 14.

(b) S.I. 1975/554, amended by S.I. 1975/1058, 1573, 1976/409, 1736, 1977/342, 1978/433, 524, 1511.

*Amendment of regulation 4 of the principal regulations*

4. Regulation 4(2) of the principal regulations (special provisions for earnings-related supplements and earnings-related addition to widow's allowance) shall be amended as follows:—

- (a) After the word "calculated" there shall be inserted the words "whether wholly or in part".
- (b) There shall be added at the end the words "provided that where the widow is also entitled for the same period to graduated retirement benefit or additional component, or both of them, by virtue of her own contributions and the contributions of the husband who has died, the graduated retirement benefit or additional component to be adjusted shall be only that part which is payable by virtue of the contributions of the husband who has died."

*Amendment of regulation 6 of the principal regulations*

5.—(1) Regulation 6 of the principal regulations (adjustment of dependency benefit in respect of a child where other dependency benefit is payable for that child) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (4) after the words "guardian's allowance" where those words first occur there shall be inserted the words "except in a case to which paragraph (5) applies,".

(3) After paragraph (4) there shall be added:—

"(5) Where a death benefit by way of an allowance under section 70 or a guardian's allowance is payable to a person in respect of a child and any other dependency benefit specified in sub-paragraph (b) or (d) of paragraph (2) is payable to that or any other person in respect of that child for the same period, the death benefit or, as the case may be, the guardian's allowance shall be adjusted by deducting from it the other benefit and only the balance, if any, shall be payable."

*Amendment of regulation 12 of the principal regulations*

6.—(1) Regulation 12 of the principal regulations (priority between persons entitled to increase of benefit) shall be further amended by substituting for paragraph (2) the following paragraph:—

"(2) Where, but for the provisions of this paragraph, a man and his wife would both be entitled to an increase of retirement pension (being an increase of Category A or Category C retirement pension in his case and a Category B or Category C retirement pension in hers) in respect of the same child or children, that man shall, and his wife shall not, be entitled to the increase; and he shall be treated as so entitled for the purposes of this paragraph during any period for which he would be entitled but for the operation of any provision of the Act, with the exception of section 82(5)(b) (disqualification while undergoing imprisonment or detention), disqualifying him for the receipt of benefit."

(2) In paragraph (3) for the words "(5) and (6)" there shall be substituted "(2), (5) and (6)".

*Amendment of the Schedule to the principal regulations*

7. The Schedule to the principal regulations (personal benefits which are required to be adjusted by reference to benefits not under Chapters I and II of Part II of the Act) shall be amended as follows:—

- (a) Paragraph 1A in columns 1 and 2 shall be deleted;
- (b) In column 1, paragraph 4 shall be amended by adding the words “, non-contributory invalidity pension or invalid care allowance.”.

*Amendment of the Social Security Benefit (Computation of Earnings) Regulations 1978*

8.—(1) The Social Security Benefit (Computation of Earnings) Regulations 1978(a) shall be amended in accordance with the following provisions.

(2) In regulation 1(2) (interpretation) the definition beginning “regulation 10(4) of the Dependency Regulations” shall be omitted.

(3) In regulations 3(1)(b), 5(2) and 7 the words “and regulation 10(4) of the Dependency Regulations” shall be omitted.

*Revocations*

9. The regulations specified in column (1) of the Schedule to these regulations are hereby revoked to the extent mentioned in column (3).

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

*Stanley Orme,*

Minister for Social Security  
Department of Health and Social Security.

26th March 1979.

*Regulation 9*

## SCHEDULE

## REGULATIONS REVOKED

Column (1) Citation	Column (2) Statutory Instruments	Column (3) Extent of Revocation
1. The Social Security (Overlapping Benefits) Regulations 1975	S.I. 1975/554	Regulation 3(3)(b)
2. The Social Security (Non-Contributory Invalidity Pension) Regulations 1975	S.I. 1975/1058	Regulation 18(8)
3. The Social Security (Invalid Care Allowance) Regulations 1976	S.I. 1976/409	Regulation 15(4)

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations further amend the Social Security (Overlapping Benefits) Regulations 1975 and amend the Social Security Benefit (Computation of Earnings) Regulations 1978.

Regulation 2 ensures that, for the purposes of the Social Security (Overlapping Benefits) Regulations 1975 ("the principal regulations"), references to additional component include references to increases of additional component and guaranteed minimum pension increments.

Regulations 3 and 4 make minor adjustments in relation to widows over pensionable age.

Regulation 5 makes a minor adjustment in respect of certain dependency benefits.

Regulation 6 amends a provision relating to priority as between husband and wife in relation to increase of benefit for dependent children.

Regulation 7 makes minor adjustments to the principal regulations to ensure equality of treatment of widows and widowers in the circumstances to which the regulation applies.

Regulation 8 extends the scope of certain of the Social Security Benefit (Computation of Earnings) Regulations 1978 so that they apply to increases of certain benefits whether or not the dependant resides with the beneficiary.

Regulation 9 and the Schedule revoke certain provisions of regulations in consequence of the passing of the Social Security Act 1979.



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