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STATUTORY INSTRUMENTS

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**1985 No. 1190**

**SOCIAL SECURITY**

**The Social Security Benefit (Dependency)  
Amendment Regulations 1985**

*Laid before Parliament in draft*

*Made - - - - 29th July 1985*

*Coming into Operation 16th September 1985*

Whereas these are regulations to which the provisions of section 27(1)(a) of the Social Security Act 1985 apply and are the first such regulations to be made before the expiry of the period of 6 months beginning with the commencement of section 13 of that Act:

And whereas a draft of these regulations was laid before Parliament, pursuant to section 27(4) of that Act, and approved by resolution of each House of Parliament:

Now, therefore, the Secretary of State for Social Services, in exercise of the powers conferred on him by sections 45(2A)(b), 45A(3)(b), 46(4), 47(1A)(b), 49, 66(3), (4)(b) and (5) and 166 of, and Schedule 20 to, the Social Security Act 1975(1), hereby makes the following regulations:—

**Citation and commencement**

1. These regulations may be cited as the Social Security Benefit (Dependency) Amendment Regulations 1985 and shall come into operation on 16th September 1985.

**Amendment of the Social Security Benefit (Dependency) Regulations 1977**

2. The Social Security Benefit (Dependency) Regulations 1977(2) (hereinafter referred to as “the principal regulations”) shall be amended in accordance with the following provisions of these regulations.

**Substitution of regulations 8 and 9 of the principal regulations**

3. For regulations 8 and 9 of the principal regulations there shall be substituted the following regulation—

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(1) section 45A was inserted by the Health and Social Security Act 1984 (c. 48), section 12; sections 45(2A), 45A(3), 46(4), 47(1A) and 66(3), (4) and (5) were inserted or substituted by the Social Security Act 1985, section 13.  
(2) relevant amendments are S.I. 1983/1001, 1984/1698 and 1728.

### **“Earnings rules for increases for adult dependants**

8.—(1) This paragraph applies in cases where an increase of benefit is claimed in respect of an adult dependant who is residing with the beneficiary and the increase is claimed under any of the following provisions of the Act—

- (a) section 45(2) (increase of Category A or C retirement pension or invalidity pension in respect of a wife);
- (b) section 45A(1) (Increase of Category A retirement pension in respect of a husband);
- (c) section 46(2) (increase of Category A or C retirement pension or invalidity pension in respect of a person having care of children);
- (d) section 47(1) (increase of invalidity pension in respect of a husband);
- (e) section 49 (so far as it applies to an increase of severe disablement allowance in respect of a spouse or person having care of children); and
- (f) section 66(1)(a) or (d) (increase of disablement pension in respect of a spouse or person having care of children where beneficiary entitled to unemployment supplement).

(2) Where paragraph (1) applies there shall be no increase of benefit if, in the week ending last before any week in which the beneficiary is entitled to benefit under any provision specified in paragraph (1), the adult dependant has earnings which exceed the amount specified in sub-paragraph 1(a) of Part I of Schedule 4 to the Act.

(3) This paragraph applies in cases where an increase of benefit is claimed in respect of an adult dependant who is not residing with the beneficiary and the increase is claimed under any of the following provisions of the Act—

- (a) section 47(1)(a) (increase of invalidity pension in respect of a husband);
- (b) section 49 (in so far as it applies to an increase of severe disablement allowance in respect of an adult dependant); and
- (c) section 66(1)(a) (increase of disablement pension in respect of a spouse where beneficiary entitled to unemployment supplement).

(4) Where paragraph (3) applies there shall be no increase of benefit unless the beneficiary is contributing to the maintenance of the adult dependant at a rate, subject to regulation 11(1), not less than the standard amount of the increase and the earnings of the adult dependant in the week in respect of which the beneficiary is entitled to benefit under any provision specified in paragraph (3) do not exceed that amount.

(5) In determining, for the purposes of this regulation, the amount of earnings of a person having the care of a child no account shall be taken of any earnings of that person which are derived from employment by the beneficiary in caring for a child or children in respect of whom the beneficiary is entitled to child benefit.

(6) Where on 14th September 1985, a beneficiary was entitled to an increase of benefit for that day or for a period including that day under any of the provisions of the Act to which paragraph (1) or (3) applies the provisions of the Act and of these regulations relating to the reduction of the rate of such increase on account of the earnings of the adult dependant in force on that day shall, if more favourable to the beneficiary, continue to apply after that day, to the exclusion of the provisions of this regulation, until such time as the beneficiary first ceases to be entitled to that increase.

(7) In paragraphs (2) and (4) “week” where used in the expression “week in which the beneficiary is entitled to benefit” means —

- (a) in relation to Category A or C retirement pension the period of 7 days beginning with the day on which in accordance with the provisions of regulation 16(6) of the Social Security (Claims and Payments) Regulations 1979(3) is the day for payment of the retirement pension in question; and
- (b) in relation to any other benefit the period of 7 days beginning with midnight between Sunday and Monday

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#### **Amendment of regulation 12 of the principal regulations**

4. Regulation 12 of the principal regulations shall be amended by inserting after the words “(increases for dependants)” the words “and of regulations 8 and 11”.

#### **Revocations**

5. Paragraph (4) of regulation 10 of the principal regulations is hereby revoked.

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

29th July 1985

*Tony Newton*  
Minister of State  
Department of Health and Social Security

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(3) relevant amending instrument is S.I. 1984/550.

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## EXPLANATORY NOTE

These Regulations are made before the expiry of the period of 6 months beginning with the commencement of section 13 of the Social Security Act 1985 and accordingly, by virtue of section 27(1) of that Act, they are exempt from the requirements of section 141(2) of the Social Security Act 1975 (reference of regulations to Industrial Injuries Advisory Council) and section 10(1) of the Social Security Act 1980 (c. 30) (reference of regulations to Social Security Advisory Committee).

The Regulations further amend the Social Security Benefit (Dependency) Regulations 1977 as regards the entitlement of a beneficiary in receipt of a Category A or C retirement pension, invalidity pension, severe disablement allowance or disablement pension with unemployability supplement to an increase of that benefit in respect of an adult dependant. In the case of a dependant who is residing with the beneficiary there is to be no increase in any week in which the dependant's earnings in the preceding week exceeded the standard rate of unemployment benefit. In the case of a non-resident dependant, there is to be no increase in any week where either the beneficiary's contribution to the support of the dependant is less than the amount of the increase, or the dependant's earnings exceed it.

The regulations also provide that where a beneficiary is, on 14th September 1985, entitled to an increase of benefit the earnings rules then in force shall, if more favourable, continue to apply until he first ceases to be so entitled.