

1977 No. 343**SOCIAL SECURITY****The Social Security Benefit (Dependency)
Regulations 1977**

<i>Made</i> - - - - -	<i>1st March 1977</i>
<i>Laid before Parliament</i>	<i>11th March 1977</i>
<i>Coming into Operation</i>	<i>4th April 1977</i>

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The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 33(2), 44, 46, 47, 49, 66 and 84 of, and Schedule 20 to, the Social Security Act 1975(a), as amended in the case of the said sections 44, 46 and 66 and Schedule 20 by section 21(1) of, and Schedule 4 to, the Child Benefit Act 1975(b) and section 20(1) of the Child Benefit Act 1975 and all other powers enabling him in that behalf, hereby makes the following regulations for the purpose only of consolidating regulations hereby revoked:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security Benefit (Dependency) Regulations 1977 and shall come into operation on 4th April 1977, immediately after the coming into operation of the Social Security (Child Benefit Consequential) Regulations 1977(c).

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

“the Act” means the Social Security Act 1975;

“the Child Benefit Act” means the Child Benefit Act 1975;

►”the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;◄

“entitled to child benefit” includes treated as so entitled;

Defn. of “the Contributions and Benefits Act” inserted into reg. 1(2) by reg. 2 of S.I. 1992/3041 as from 5.12.92.

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- (a) 1975 c. 14.
 (b) 1975 c. 61.
 (c) S.I. 1977/342.

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“parent” has the meaning assigned to it by section 24(3) of the Child Benefit Act;

▶¹“determining authority” means, as the case may require, the Secretary of State, an appeal tribunal constituted under Chapter I of Part I of the Social Security Act 1998, ▶²the First-tier Tribunal or the Upper Tribunal◀◀

“the standard rate of increase” means the amount specified in Part IV or Part V of Schedule 4 to the Act as the amount of an increase for an adult dependant of the benefit in question,

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

▶³(3) Regulations 2(2) and (3), 4 and 5(1) shall, with any necessary modifications, apply to ▶⁴carer’s allowance◀ as they apply to retirement pension.◀

▶⁵(3A) Nothing in these Regulations applies for the purposes of incapacity benefit under section 30A of the Contributions and Benefits Act.◀

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

- (a) a numbered section is to the section of the Act bearing that number;
- (b) 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;
- (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 may re-enact or replace it, with or without modification.

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

Provisions as to maintenance for the purposes of increase of benefit in respect of dependants

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

- (a) when ▶⁶◀ incapable of work, or, as the case may be, ▶⁷entitled to a Category A or Category B retirement pension◀, 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 ▶⁸entitled◀ (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) In a case where—

- (a) a person is partly maintained by each of 2 or more other persons each of whom could be entitled to an increase of benefit under the Act in respect of that person if he were wholly or mainly maintaining that person, and
- (b) the contributions made by those other persons towards the maintenance of that person amount in the aggregate to sums which, if they were contributed by one of them, would be sufficient to satisfy the foregoing 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 other persons who—

¹Defn. of “determining authority” substituted by para. 1 of Sch. 2 to S.I. 1999/3178 as from 29.11.99.

²Words substituted in reg. 1(2), defn. of “determining authority” by art. 7 of S.I. 2008/2683 as from 3.11.09.

³Reg. 1(3) substituted by reg. 15(2)(a) of S.I. 1994/2945 as from 13.4.95.

⁴Words substituted in reg. 1(3) by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

⁵Para. (3A) inserted into reg. 1 by reg. 15(2)(b) of S.I. 1994/2945 as from 13.4.95.

⁶Words deleted in reg. 2(1)(a) by reg. 12(2) of S.I. 1996/1345 as from 7.10.96.

⁷Words substituted in reg. 2(1)(a) by reg. 4 of S.I. 1989/1642 as from 1.10.89.

⁸Word substituted in reg. 2(1)(b) by reg. 4 of S.I. 1989/1642 as from 1.10.89.

(a) 1889 c. 63.

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- (i) makes the larger or largest contributions to the maintenance of that person, or
- (ii) in a case where no person makes the larger or largest contributions as aforesaid, is the elder or eldest of the said other persons, or
- (iii) in any case, is a person designated in that behalf by a notice in writing signed by a majority of the said other persons and addressed to the Secretary of State,

so long as that one of the said other persons continues to be entitled to benefit under the Act and to satisfy the condition contained in paragraph (1)(a) of this regulation.

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

Allocation of contributions for \blacktriangleright^1 spouse \blacktriangleleft^2 or civil partner \blacktriangleleft^3

3.—(1) Subject to the provisions of this regulation, any sum or sums paid by a person by way of contribution towards either or both of the following, that is to say the maintenance of his \blacktriangleright^1 spouse \blacktriangleleft^2 or civil partner \blacktriangleleft and the cost of providing for one or more children to whom this regulation refers, shall be treated for the purposes of section 31(c)(i), \blacktriangleright^3 \blacktriangleleft^4 , \blacktriangleright^5 44(3)(a), \blacktriangleleft 45(2)(b), \blacktriangleright^5 45A(2)(b), \blacktriangleright^6 \blacktriangleleft , \blacktriangleleft 65(1). 66(1)(a), or \blacktriangleright^7 70(2) \blacktriangleleft (conditions as to maintenance) as such contributions of such respective amounts equal in the aggregate to the said sum or sums, in respect of such of the persons hereinafter mentioned, that is to say, his \blacktriangleright^1 spouse \blacktriangleleft^2 or civil partner \blacktriangleleft 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 \blacktriangleright^1 spouse \blacktriangleleft^2 or civil partner \blacktriangleleft 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 \blacktriangleright^1 spouse \blacktriangleleft^2 or civil partner \blacktriangleleft , unless in either case the \blacktriangleright^1 spouse \blacktriangleleft^2 or civil partner \blacktriangleleft is entitled to child benefit in respect of the child or children.

(3) Except for the purposes of section 31(c)(i) (child's special allowance), the children to whom this regulation refers are any children in respect of whom, in the period for which the sum in question is paid by the person, that person is entitled to child benefit or could have been so entitled by virtue of regulations had he contributed to the cost of providing for the child at a sufficient weekly rate.

(4) For the purposes of section 31(c)(i)–

- (a) the children to whom this regulation refers are any such children to whom section 31(b) applies;
- (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 \blacktriangleright^8 superseded \blacktriangleleft from time to time by \blacktriangleright^9 the Secretary of State \blacktriangleleft 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 \blacktriangleright^8 supersession \blacktriangleleft shall affect entitlement in respect of any period before the date of the \blacktriangleright^8 supersession \blacktriangleleft ; and
- (c) the condition in paragraph (2) shall be deemed to be satisfied if it would have been satisfied but for the fact that the child was not then in Great Britain.

¹Word substituted by reg. 2(2), (3) & (4) of S.I. 1983/1001 as from 21.11.83.

²Words inserted in heading to reg. 3 & in paras. (1) & (2) by para. 7(2) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

³Words "or children" in heading to reg. 3 & words "43(1)(b)" in reg. 3(1) omitted by reg. 2(2)(a) of S.I. 2003/937 as from 6.4.03. See S.I. 2003/938 at page 3.731 for details of savings provisions.

⁴Ref. deleted in reg. 3(1) by reg. 12(3)(a) of S.I. 1996/1345 as from 7.10.96.

⁵Ref. inserted by reg. 2(2) of S.I. 1985/1305 as from 16.9.85.

⁶Ref. deleted by reg. 15(3)(a) of S.I. 1994/2945 as from 13.4.95.

⁷Ref. substituted by reg. 3(a) of S.I. 1984/1699 as from 28.11.84.

⁸Words substituted by reg. 2(3) & (4) of S.I. 1983/1001 as from 21.11.83.

⁹Words substituted in reg. 3(4)(b) by para. 2 of Sch. 2 to S.I. 1999/3178 as from 29.11.99.

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►(5) In the heading to this regulation and in paragraphs (1) and (2) the word “spouse” includes both husband and wife except in relation to maintenance contributions for the purposes of ►section◄ 45(2)(b) where it means wife only, and in relation to maintenance contributions for the purposes of sections 44(3)(a) ►and 45A(2)(b)◄ where it means husband only.◄

►Deeming benefit under the Act abated under section 27(3) of the Social Security Act 1986 to be a contribution for the maintenance of children or adult dependants

4. 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 benefit prescribed under section 27(3)(a) of the Social Security Act 1986(a) (prevention of duplication of payments) in respect of another person (in this regulation referred to as B) and the amount of, or of the increase in, any such benefit is abated under section 27(3) of the Social Security Act 1986, then in determining for the purpose of the Social Security Act 1975 whether A is wholly or mainly maintaining or is contributing at any weekly rate to the maintenance of, or is or has been contributing at any weekly rate to the cost of providing for, B, the amount by which such benefit 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.◄

►Circumstances in which a person who is not entitled to child benefit is to be treated as if he were so entitled

4A.—(1) For the purposes of section 38 (guardian’s allowance) or sections ►◄ 44(3)(c), 46(2), 49, 64(1) and 66(1)(d) (increase of benefit in respect of dependent children, and ►◄ persons having care of dependent children) a person shall be treated as if he were entitled to child benefit in respect of a child for any period throughout which—

- (a) child benefit has been awarded to a parent of that child with whom that child is living and with whom that person is residing and either—
 - (i) the child is being wholly or mainly maintained by that person; or
 - (ii) that person is also a parent of the child; or
- (b) he, or his spouse ►or civil partner◄ with whom he is residing, would have been entitled to child benefit in respect of that child had the child been born at the end of the week immediately preceding the week in which birth occurred.

[Regulation 4A(2) revoked by regulation 2(13) of S.I. 1984/1698 as from 26.11.84; but transitionally saved in circumstances described in reg. 3 *ibid.*]

(3) For the purpose of determining whether a person is entitled to a guardian’s allowance under section 38, where in respect of a child that allowance is payable to a person for a continuous period of 7 days and would have been payable to that person for the immediately preceding 7 days had he been entitled to child benefit in respect of that child for an earlier week, he shall be treated as if he were entitled to child benefit in respect of that child for that earlier week.

(4) If for any period a person who is in Great Britain could have been entitled to receive payment of an amount by way of a benefit or allowance or an increase of a benefit or an allowance under the Act in respect of a child or ►◄ person who has the care of a child but for the fact that in pursuance of any agreement with the government of a country outside the United Kingdom he, or his ►spouse◄ ►or civil partner◄ who is residing with him, is entitled in respect of the child in question to the family benefits of that country and is not entitled to child benefit, he shall for the purposes of entitlement to the said payment be treated as if he were entitled to child benefit for the period in question.

(5) The expression “earlier week” in paragraph (3) means the week immediately preceding the first week for which the person referred to in that paragraph was entitled to child benefit in respect of the child referred to in that paragraph.

Para. inserted by reg. 2(3) of S.I. 1985/1305 as from 16.9.85.

Word substituted in reg. 3(5) by reg. 12(3)(b) of S.I. 1996/1345 as from 7.10.96.

Ref. substituted by reg. 15(3)(b) of S.I. 1994/2945 as from 13.4.95.

Reg. 4 substituted by reg. 2 of S.I. 1988/554 as from 11.4.88.

Reg. 4A inserted by reg. 2 of S.I. 1980/585 as from 2.6.80.

Word “41” in reg. 4A(1) omitted by reg. 2(2)(b) of S.I. 2003/937 as from 6.4.03. See S.I. 20003/938 at page 3.731 for details as to savings provisions.

Word deleted from reg. 4A(1) by reg. 2 of S.I. 1989/523 as from 11.4.89.

(a) Words inserted in paras. (1)(b) & (4) of reg. 4A by para. 7(3) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

Word deleted by reg. 2(3) of S.I. 1984/1698 as from 26.11.84.

Word substituted by reg. 2(3) of S.I. 1984/1698 as from 26.11.84. See note (a) above.

(a) 1986 c. 50.

Regs. 4A-4B

(6) For the purposes of paragraph (1) the word “week” has the meaning assigned to it by section 24(1) of the Child Benefit Act; and for the purposes of paragraphs (1) and (2) a child shall not be regarded as living with a person unless he can be so regarded for the purposes of section 3 (meaning of “person responsible for child”) of the said Act.

Reg. 4B substituted by reg. 5 of S.I. 2000/1483 as from 9.4.01.

Paras. (1)(c) & (4)(e) of reg. 4B omitted by reg. 2(2)(c) of S.I. 2003/937 as from 6.4.03. See S.I. 2003/938 at page 3.731 for details of savings provisions.

►Circumstances in which a person entitled to child benefit is to be treated as if he were not so entitled

4B.—(1) For the purposes of—

- (a) section 56 (child’s special allowance);
- (b) section 77 (guardian’s allowance);
- (c) ►◄
- (d) section 82(4) (short-term benefits - increase for adult dependants);
- (e) section 85(2) (pension increase (person with care of children));
- (f) section 90 (increase in benefits for beneficiaries under sections 68 and 70), of the Contributions and Benefits Act, and
- (g) paragraphs 4(1) (unemployability supplement: increase for beneficiary’s dependent children) and 6(1) (unemployability supplement: increase for dependent adults) of Schedule 7 to,

that Act, a person who is entitled to child benefit in respect of a child shall be treated as if he were not so entitled for the periods referred to in paragraph (2) below.

(2) The periods referred to in paragraph (1) above are—

- (a) any period throughout which—
 - (i) the person referred to in that paragraph, not being a parent of the child, does not fall to be treated as responsible for the child under section 143(1)(a) of the Contributions and Benefits Act, and
 - (ii) a parent of that child falls to be treated as responsible for the child under the said section 143(1)(a); or
- (b) any period throughout which—
 - (i) that person, not being a parent of that child, falls to be treated as responsible for the child under section 143(1)(a) of the Contributions and Benefits Act, and
 - (ii) a parent of that child also falls to be treated as responsible for the child under the said section 143(1)(a); or
- (c) any day following the day on which that child died.

(3) Sub-paragraph (b) of paragraph (2) shall not apply in the case of a person who is wholly or mainly maintaining the child referred to in that sub-paragraph.

(4) For the purposes of—

- (a) section 37(1) (entitlement to a widowed mother’s allowance);
- (b) section 39A(2) (entitlement to a widowed parent’s allowance);
- (c) section 56(1)(b);
- (d) section 77(1);
- (e) ►◄
- (f) section 82(4);
- (g) section 85(2);
- (h) section 90;

of the Contributions and Benefits Act, and

- (i) paragraphs 4(1), 6(1) and 18(1)(a)(ii) of Schedule 7 (industrial death benefit: child of deceased's family) to,

that Act, a person who is entitled to child benefit in respect of a child shall be treated as if he were not so entitled for any period for which that benefit is not payable by virtue of any of the provisions referred to in paragraph (5) below.

(5) The provisions referred to in paragraph (4) above are—

- (a) regulation 7 (circumstances in which a person who has ceased to receive full-time education is to continue to be treated as a child);
- (b) regulation 7A (exclusion from benefit of children aged 16 but under the age of 19 who are receiving advanced education);
- (c) regulation 7B (child receiving training under the youth training scheme); or
- (d) regulation 7C (child receiving income support),

of the Child Benefit (General) Regulations 1976(a) or any provision contained in regulations made under section 144(1) of the Contributions and Benefits Act in so far as those regulations provide that child benefit is not to be payable by virtue of section 142(1)(b) of that Act and regulations made thereunder. ◀

PART II

CHILD DEPENDANTS

Contribution towards cost of providing for child

5.—(1) Where, apart from section 43(1), 65(1) or ►70(2)◀, a person is entitled to receive, in respect of a particular child, payment under the Act of an amount by way of child's special allowance (section 31), or a guardian's allowance (section 38) or of an increase under any of the provisions of section 41 of any

Ref. substituted by reg. 3(a) of S.I. 1984/1699 as from 28.11.84.

- (a) S.I. 1976/965; Regulation 7 was substituted by regulation 3 of S.I. 1980/1045 and amended by regulation 2 of S.I. 1982/470; regulation 5(1) to (3) of S.I. 1987/357 and regulation 4 of S.I. 1988/1227; regulation 7A was added by regulation 2(3) of S.I. 1977/534; regulation 7B was added by regulation 2(3) of S.I. 1977/534 and substituted by regulation 5 of S.I. 1988/1227 and regulation 7C was added by regulation 2(3) of S.I. 1977/534 and substituted by regulation 2(2) of S.I. 1996/345.

benefit, or payment of an increase or allowance of any amount under section 64 or section 70, for any period, and neither of the conditions set out in the following paragraphs is satisfied, that person shall nevertheless for the purposes of the said section 43(1), 65(1) or ►70(2)◄ be deemed as respects that period to be making the contributions so required at a weekly rate not less than that required by the said section 43(1) or 65(1) if—

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

(2) The conditions referred to in paragraph (1) are—

- (a) the person would be treated for the purposes of the Child Benefit Act as having the child living with him; or
- (b) contributions are being made to the cost of providing for the child at a rate equal to the amount of the relevant increase of benefit.

(3) Where, in respect of any period, the person referred to in this regulation fails to make the contributions which he has undertaken to make in accordance with the first paragraph of this regulation, the decision awarding the increase or allowance in question for that period in respect of the child shall be revised.

[Regulation 5(4) revoked by regulation 7 of and Schedule to S.I. 1978/433 as from 3.4.78.]

►(5) Except in a case to which regulation 15 (preservation of entitlement to benefit in payment before 4th April 1977 for a child dependant) or regulation 13A of the Social Security Benefit (Persons Abroad) Regulations 1975(a), as amended(b) (modification of the Act in relation to title to benefit for beneficiary's child dependants) applies, paragraph (b) of section 43(2) and paragraph (b) of section 65(2) of the Act (contributions mentioned in those paragraphs to be over and above those required for the purposes of section 3(1)(b) of the Child Benefit Act) shall not apply in a case where neither the beneficiary nor his spouse ►or, as the case may be, his civil partner◄ (if he has a spouse ►or civil partner◄ and his spouse ►or civil partner◄ is residing with him) is in fact entitled to child benefit in respect of the child in question.◄

Ref. substituted by reg. 3(a) of S.I. 1984/1699 as from 28.11.84.

Para. inserted by reg. 2 of S.I. 1977/620 as from 4.4.77.

Words inserted in reg. 5(5) by para. 7(4) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

Meaning of “week” for the purpose of calculating earnings

6. ►◄

[Regulation 7 (circumstances in which a person entitled to child benefit is to be treated as if he were not so entitled) revoked by regulation 3 of S.I. 1980/585 as from 2.6.80.]

Reg. 6 deleted by Sch. 4 of S.I. 1996/2745 as from 25.11.96.

PART III

ADULT DEPENDANTS

►Earnings rules for increases for adult dependants

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

- (a) section 83(2) (increase of Category A or Category C retirement pension ►◄ in respect of a wife); ►or◄

Reg. 8 substituted by reg. 3 of S.I. 1992/3041 as from 5.12.92, subject to saving in reg. 4 *ibid*.

Words deleted in reg. 8(1)(a) by reg. 15(4) of S.I. 1994/2945 as from 13.4.95.

Word added to end of reg. 8(1)(a) by para. 7(5)(a)(i) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

(a) S.I. 1975/563.

(b) The relevant amending instrument is S.I. 1977/342.

Reg. 8

In reg. 8(1)(b) word 'or' omitted & sub para. (c) omitted & para. (1A) inserted & words in para. (2) inserted by para. 7(5) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

- (b) section 84(1) (increase of Category A retirement pension in respect of a husband); ▶◀
 (c) ▶◀

▶(1A) This paragraph applies in cases where an increase of benefit is claimed in respect of a spouse or a civil partner who, in either case, is residing with the beneficiary and the increase is claimed under paragraph 6(1)(a)(i) of Schedule 7 to the Contributions and Benefits Act (increase of disablement pension in respect of a spouse or civil partner where beneficiary entitled to unemployment supplement).◀

(2) Where paragraph (1) ▶or (1A)◀ applies, there shall be no increase of benefit for any period during which the beneficiary is residing with his spouse ▶or civil partner◀ and his spouse ▶or civil partner◀ has earnings if the earnings of the spouse ▶or civil partner◀ in the week in that period which falls immediately before the week in which the beneficiary is entitled to benefit under any provision specified in paragraph (1) exceed.

▶the amount for the time being specified in regulation 79(1)(c) of the Jobseeker's Allowance Regulations 1996(a) (age related amount for a claimant who has attained the age of 25).◀
 ▶£48.25◀.

(3) Where the person referred to in section 85(2) of the Contributions and Benefits Act ("the dependant") is residing with the pensioner, the weekly rate of a pension to which section 85 of that Act applies shall be increased by the amount specified in relation to that pension in column 3 of Part IV of Schedule 4 to that Act but there shall be no increase of pension for any period—

- (a) during which the pensioner is residing with the dependant; and
 (b) the dependant has earnings.

if the earnings of the dependant in the week in that period which falls immediately before the week in which the pensioner is entitled to the pension exceed

▶the amount for the time being specified in regulation 79(1)(c) of the Jobseeker's Allowance Regulations 1996(a) (age related amount for a claimant who has attained the age of 25).◀
 ▶£48.25◀.

(4) Where the person referred to in paragraph 6(1)(b) of Schedule 7 to the Contributions and Benefits Act ("the dependant") is residing with the beneficiary, the weekly rate of the disablement pension to which that paragraph applies shall be increased by the amount referred to in paragraph 8 of Part V of Schedule 4 to that Act but there shall be no increase of disablement pension for any period—

- (a) during which the beneficiary is residing with the dependant; and
 (b) the dependant has earnings,

if the earnings of the dependant in the week in that period which falls immediately before the week in which the beneficiary is entitled to a disablement pension exceed

▶the amount for the time being specified in regulation 79(1)(c) of the Jobseeker's Allowance Regulations 1996(a) (age related amount for a claimant who has attained the age of 25).◀
 ▶£48.25◀.

Reg. 12(5) of S.I. 1996/1345 applies where (and, under reg. 12(6), only as long as) the amount for the time being specified in reg. 79(1)(c) of the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) is less than the amount (namely £48.25) in para. 1 of Part I of Sch. 4 to the S.S. Conts. and Bens. Act 1992 (c. 4) as in force on 6.10.96. The amount for the time being specified in the said reg. 79(1)(c) as from 7.10.96 was £47.90.

(5) In determining the earnings of a dependant for the purposes of paragraphs (3) and (4), no account shall be taken of any earnings of that person from employment by the pensioner or the beneficiary as the case may be in caring for a child or children in respect of whom the pensioner or the beneficiary is entitled to child benefit.

(a) S.I. 1996/207.

Regs. 8-10

(6) Where an increase of benefit is claimed in respect of a spouse ►or civil partner◄ who is not residing with the beneficiary and the increase is claimed under paragraph 6(1)(a)(ii) of Schedule 7 to the Contributions and Benefits Act there shall be no increase of benefit for any period during which the beneficiary is contributing to the maintenance of the spouse ►or civil partner◄ at a rate less than the standard rate of the increase and the weekly earnings of the spouse exceed that rate.

Words inserted in reg. 8(6) by para. 7(5)(d) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

(7) In this regulation—

(a) “week” means—

(i) in relation to Category A or Category C retirement pension the period of 7 days beginning with the day which in accordance with the provisions of regulation 22 of and paragraph 5 of Schedule 6 to the Social Security (Claims and Payments) Regulations 1987(a) is the day for payment of the retirement pension in question; and

(ii) in relation to any other benefit ►any period of 7 days corresponding to the week in respect of which the relevant social security benefit is due to be paid or ending on the day before the first day of the first such week following the date of claim◄; and

Words in reg. 8(7)(a)(ii) substituted by reg. 17(a) of S.I. 1996/2745 as from 25.11.96.

(b) any reference to earnings includes a reference to payments by way of occupational or personal pension.◄

Reg. 9— There has been no reg. 9 since 16.9.85, when the former regs. 8 (increase of benefit in respect of wife and computation of earnings) and 9 (increase of benefit for dependent relatives and further conditions applicable) were replaced by a revised reg. 8.

►Apportionment of payments by way of occupational [or personal] pension made otherwise than weekly

Reg. 9A inserted by reg. 5 of S.I. 1989/523 as from 11.4.89.

9A. ►For the purposes of section 89(1) of, and paragraph 7(1) of Schedule 7 to, the Contributions and Benefits Act, where payment by way of occupational or personal pension, or for the purposes of section 89(1A) of that Act by way of PPF periodic payment(b),◄ is for any period made otherwise than weekly, the amount of any such payment for any week in that period shall be determined—

Words substituted in reg. 9A by reg. 2(2) of S.I. 2006/1069 as from 5.5.06.

(a) where payment is made for a year, by dividing the total by 52;

(b) where payment is made for three months, by dividing the total by 13;

(c) where payment is made for a month, by multiplying the total by 12 and dividing the result by 52;

(d) where payment is made for two or more months, otherwise than for a year or for three months, by dividing the total by the number of months, multiplying the result by 12 and dividing the result of that multiplication by 52; or

(e) in any other case, by dividing the amount of the payment by the number of days in the period for which it is made and multiplying the result by 7.◄

Increase of benefit for ►◄ person having care of child ►or qualifying young person◄

10.—(1) Subject to the provisions of section 44 (increase ►◄ benefit or of a maternity allowance), section 46 (increase of a Category A or Category C retirement pension ►◄), or section 66 (increase ►◄ of a disablement pension where the beneficiary is entitled to an unemployability supplement), this regulation shall apply for the purpose of determining whether a beneficiary is entitled to an increase of benefit under section 44(3)(c), 46(2) or 66(1)(d) in respect of a ►◄ person who has the care of a child or children ►or qualifying young person or persons◄ in respect of whom the beneficiary is entitled to child benefit.

Word deleted from heading of reg. 10 by reg. 2(5) of S.I. 1984/1698 as from 26.11.84.

(a) Words added to heading to reg. 10 & 10(1) by reg. 2(2)(a) & (b) of S.I. 2006/692 as from 10.4.06.

Words deleted in reg. 10(1) by reg. 12(7)(a) of S.I. 1996/1345 as from 7.10.96.

Words deleted from reg. 10(1) by 2nd part of reg. 15(5)(a) of S.I. 1994/2945 as from 13.4.95.

Words deleted from reg. 10(1) by reg. 7(3) of S.I. 1983/186 as from 6.4.83.

(b) Word deleted from reg. 10(1) and (2) by reg. 2(5) of S.I. 1984/1698 as from 26.11.84.

See note (a) above.
See note (b) above.

(2) A beneficiary shall not be entitled to an increase under the said section 44(3)(c), 46(2) or 66(1)(d) unless the ►◄ person referred to in those sections—

(a) S.I. 1987/1968. Relevant amending instrument is S.I. 1991/2741.

(b) The definition of “PPF periodic payments” was inserted into section 89(3) of the Social Security Contributions and Benefits Act 1992 by S.I. 2006/343.

Reg. 10

(a) Words inserted in reg. 2(a) & 2(e)(i) & (ii) by reg. 2(2)(c) of S.I. 2006/692 as from 10.4.06.

Words deleted from reg. 10(2)(a) by reg. 3(b) of S.I. 1984/1699 as from 26.11.84.

Words deleted from reg. 10(2)(b)(ii) by reg. 12(7)(b) of S.I. 1996/1345 as from 7.10.96.

Words substituted in reg. 10(2)(b)(ii) by reg. 4 of S.I. 1989/1642 as from 1.10.89.

Word substituted in reg. 10(2)(b)(ii) by reg. 2(6) of S.I. 1984/1698 as from 26.11.84.

Reg. 10(2)(e) substituted by reg. 6 of S.I. 1989/523 as from 11.4.89.

See note (a) above.

Words deleted in reg. 10(3) by reg. 15(5)(b) of S.I. 1994/2945 as from 13.4.95.

Word deleted from reg. 10(3) by reg. 2(9) of S.I. 1984/1698 as from 26.11.84.

- (a) has the care of such a child ►or qualifying young person◄ as is referred to in those sections ►◄; 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 ►◄ incapable of work or ►entitled to a Category A or Category B retirement pension◄, 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 ►the◄ 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) subject to paragraph (3), is not absent from Great Britain; and
- (d) is not undergoing imprisonment or detention in legal custody; and
- (e) either–
 - (i) has no earnings or has earnings but they do not exceed the standard rate of increase (there being disregarded for this purpose any earnings derived from employment by the beneficiary in caring for a child or children ►or a qualifying young person or persons◄ in respect of whom the beneficiary is entitled to child benefit), or
 - (ii) is employed by the beneficiary in caring for such child or children ►or qualifying young person or persons◄ and is not residing with him;◄.

[Regulation 10(2)(f) revoked by regulation 7 of S.I. 1989/523 as from 11.4.89.]

(3) In the case of ►◄ any pension to which this regulation applies, the condition referred to in sub-paragraph (c) of paragraph (2) shall not apply as respects any period during which the said ►◄ person is residing with the beneficiary outside Great Britain and for which by virtue of the provisions of any regulations made under section 82(5) (disqualification) or 131 (persons outside Great Britain) the beneficiary is not disqualified for receiving that benefit.

[Regulation 10(4) revoked by regulation 5 of S.I. 1985/1190 as from 16.9.85.]

[Regulation 10(5) revoked by regulation 8 of, and Schedule to S.I. 1978/1698 as from 1.1.79.]

Contribution to maintenance of adult dependant

11.—(1) Subject to paragraphs (2) and (3), for the purposes of ►section ►◄ 44(3)(a), 45(2), ►45A◄►◄ or 66(1)(a)◄ (increase of ►◄ a Category A or Category C retirement pension or benefit to which section 66 applies in respect of a ►spouse◄) or of regulation 10(2)(b)(iii) (increase of ►◄ a Category A or Category C retirement pension or benefit to which section 66 applies in respect of a ►◄ person having the care of a child ►or qualifying young person◄)–

- (a) a beneficiary shall not be deemed to satisfy the requirement contained in the said sections of the said regulation that he is contributing to the maintenance of the ►spouse◄ or the ►◄ person ►having the care of a child ►or qualifying young 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 ►entitled to a Category A or Category B retirement pension◄, as the case may be (except in a case where the dependency did not arise until later), he contributed to ►that spouse’s or ►◄ person’s◄ 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 sub-paragraph (a) above, be deemed to satisfy the said requirement if he is contributing to the maintenance of the ►spouse◄ or ►◄ person ►having the care of a child ►or qualifying young person◄◄, as the case may be, at a weekly rate of not less than that of the increase.

►(1A) Subject to paragraphs (2) and (3), for the purposes of section 82 of, and paragraph 6(1)(a)(i) of Schedule 7 to, the Contributions and Benefits Act (increase of maternity allowance and increase of disablement pension where beneficiary entitled to unemployability supplement) a beneficiary shall not be deemed to satisfy the requirement contained in those provisions (that he is contributing to the maintenance of his civil partner at a weekly rate of not less than the standard rate of increase) unless when in employment, or not incapable of work, or not entitled to a Category A or a Category B retirement pension, as the case may be (except in a case where the dependency did not arise until later), he contributed to his civil partner’s maintenance at a weekly rate not less than the standard rate of increase.◄

(a) Words substituted by reg. 2(8) of S.I. 1983/1001 as from 21.11.83.

Words deleted in reg. 11(1) by reg. 12(8)(a)(i) of S.I. 1196/1354 as from 7.10.96.

Ref. added by reg. 2(11)(a) of S.I. 1984/1698 as from 26.11.84. Ref. deleted in reg. 11(1) by reg. 15(6)(a) of S.I. 1994/2945 as from 13.4.95.

Words deleted by reg. 12(8)(a)(ii) of S.I. 1996/1345 as from 7.10.96.

(b) Words inserted in reg. 11(1), (1)(a) & (1)(b) by reg. 2(3) of S.I. 2006/692 as from 10.4.06.

See note (a) above
Words deleted by reg. 12(8)(a)(ii) of S.I. 1996/1345 as from 7.10.96.

(c) Word omitted by reg. 2(11)(b) of S.I. 1984/1698 as from 26.11.84.

See note (a) above.

See note (c) above.

(d) Words inserted by reg. 2(11)(c) of S.I. 1984/1698 as from 26.11.84.

See note (b) above.

Words substituted in reg. 11(1)(a) by reg. 4 of S.I. 1989/1642 as from 1.10.89.

See note (a) above.

See note (c) above.

See note (a) above.

See note (c) above.

See note (b) above.

See note (d) above.

Para. (1A) inserted in reg. 11 by para. 7(6) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

Reg. 11

Words deleted in reg. 11(2) by reg. 15(6)(b)(i) of S.I. 1994/2945 as from 13.4.95.

Words deleted by reg. 4(a) of S.I. 1987/355 as from 6.4.87.

Words inserted into reg. 11(2) by reg. 15(6)(b)(ii) of S.I. 1994/2945 as from 13.4.95.

Para. inserted by reg. 4(b) of S.I. 1987/355 as from 6.4.87.

Words deleted in reg. 11(2A) by reg. 15(6)(c)(i) of S.I. 1994/2945 as from 13.5.95.

Words inserted into reg. 11(2A) by reg. 15(6)(c)(ii) of S.I. 1994/2945 as from 13.4.95.

Words substituted and added by reg. 4(c) of S.I. 1987/355 as from 6.4.87.

Words deleted in reg. 11(3) by reg. 15(6)(d) of S.I. 1994/2945 as from 13.4.95.

Words added by reg. 4(c) of S.I. 1987/355 as from 6.4.87.

Para. (4) added by reg. 11 by reg. 12(8)(b) of S.I. 1996/1345 as from 7.10.96.

(2) Where, within one month of having been entitled to an increase of unemployment benefit ►◀ under section 44(1) ►◀ or under section 44(3)(c) ►◀ by virtue of having satisfied the requirement in head (iii) of sub-paragraph (b) of regulation 10(2) (but no other requirement in that sub-paragraph), ►or of having been entitled to an increase of short-term incapacity benefit by virtue of having satisfied the requirements of regulation 9(1)(b) or (3)(b) of the Social Security (Incapacity Benefit — Increases for Dependants) Regulations 1994,◀ 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.

►(2A)Where, within one month of having been entitled to an increase of unemployment benefit ►◀ under section 44(3)(a) by virtue of contributing to the maintenance of her husband at a weekly rate not less than the standard rate of the increase, ►or of having been entitled to an increase of short-term incapacity benefit by virtue of having satisfied the requirements of regulation 9(1)(b) or 3(b) of the Social Security (Incapacity Benefit – Increases for Dependants) Regulations 1994,◀ a woman becomes entitled to a benefit which attracts a standard rate of increase higher than that of the benefit to which she had been entitled, she shall be deemed to satisfy the condition in paragraph (1)(a) if she satisfies it in relation to the benefit to which she had been entitled, and in this paragraph “entitled” includes deemed to have been entitled.◀

(3) For the purposes of ►paragraphs (2) and (2A)◀ a person shall be deemed to have been entitled to an increase of unemployment 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 44(1)(b) or, as the case may be, regulation 10(2)(e) ►or the condition of section 44(3)(a) that her husband is not engaged in any one or more employments from which his weekly earnings exceed the standard rate of increase.◀

►(4) Where a person has been entitled to an addition to a contribution-based jobseeker’s allowance under regulation 9(4) of the Jobseeker’s Allowance (Transitional Provisions) Regulations 1995(a) by virtue of having satisfied the requirements for an increase of unemployment benefit referred to in paragraphs (2), (2A) or (3), he shall be treated for the purposes of those paragraphs as if he had been entitled to an increase for unemployment benefit.◀

(a) S.I. 1995/3276.

PART IV
MISCELLANEOUS

►Prescribed circumstances for the purposes of section 90 of the Social Security Contributions and Benefits Act.

Reg. 12 substituted by reg. 15(7) of S.I. 1994/2945 as from 13.4.95.

12.—(1) The provisions of Part IV of the Contributions and Benefits Act (increases of dependants) and of the Social Security (Incapacity Benefit – Increases for Dependants) Regulations 1994 shall apply in relation to increases of severe disablement allowance for child or adult dependants under section 90 of the Contributions and Benefits Act as they apply to increases of long-term incapacity benefit for child or adult dependants.

(2) For the purposes of increases of ►carer’s allowance◄ for child or adult dependants under section 90 of the Contributions and Benefits Act, the prescribed circumstances in which a beneficiary is entitled to such an increase shall be as set out in Schedule 2 to these Regulations.◄

Words substituted in reg. 12(2) by Sch. 2 to S.I. 2002/2497 as from 1.4.03.

[Regulation 13 (increase of unemployment benefit for persons over pensionable age) deleted by Sch. to S.I. 1996/1345 as from 7.10.96.]

[Regulation 14, relating to increase of short-term benefits where contribution conditions are not satisfied in full, ceased (5.10.86, with transitional savings to 4.10.87) to have effect on the repeal of s. 33(1)(a) to (c) of the Social Security Act 1975 (c. 14) and the consequent lapse of the regulation-making power in s. 33(2) *ibid.* in relation to the benefits mentioned in the said repealed paragraphs.]

PART V

TRANSITIONAL PROVISION AND REVOCATIONS

Preservation of entitlement to benefit in payment before 4th April 1977 for a child dependant**15. Where—**

- (a) immediately before 4th April 1977 a person is absent from Great Britain other than temporarily; and
- (b) as respects a period before and including 3rd April 1977 he satisfies the conditions then in force for, and is entitled to receive, payment of an amount by way of a benefit or allowance or an increase of a benefit or an allowance under the Act in respect of a child who is ordinarily resident in Great Britain; and
- (c) would cease, as from 4th April 1977, to be entitled to that payment by reason of the fact that he does not satisfy one of the conditions for receiving such a payment, namely, that he is entitled to child benefit in respect of that child,

that person shall, for any period beginning not earlier than 4th April 1977 during which he would, or could had he made an appropriate claim, be entitled to child benefit in respect of that child were he not absent from Great Britain, be treated as so entitled while he continues to satisfy all other conditions applicable to such a payment (including making contributions to the cost of providing for that child over and above those that would have been required for the purpose of satisfying subsection (1)(b) of section 3 of Child Benefit (Act) unless subsequent to 4th April 1977 he becomes ordinarily resident in Great Britain.

[Regulation 15A revoked by regulation 2(13) of S.I. 1984/1698 as from 26.11.84.]

Revocations

16. The regulations specified in column 1 of Schedule 3 to these regulations are hereby revoked to the extent mentioned in column 3 of that Schedule.

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

1st March 1977

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

[Schedule 1 spent following 2-year saving (from 23.11.81) in S.S. Act 1980 (c. 30), Sch. 1, para. 3; lapsed (16.9.85) on removal of reference to Sch. 1 from these Regulations by S.I. 1985/1190, reg. 3.]

SCHEDULE 2

Regulation 12(2)

PRESCRIBED CIRCUMSTANCES FOR INCREASE OF ¹A
CARER'S ALLOWANCE[◀]

¹Words substituted in Sch. 2 title, Part 1 title & in paras. 1, 2, & 2BB by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

PART I

Increase of ¹carer's allowance[◀] for child dependants

1. For the purposes of increases of ¹carer's allowance[◀] for child dependants under section 49, the prescribed circumstances in which a beneficiary is entitled to such an increase for any period shall be as set out in the following paragraphs.

2. The weekly rate of ¹a carer's allowance[◀] for any period for which the beneficiary is entitled to child benefit in respect of a child or children shall be increased in respect of that child, or each respectively of those children, by the appropriate amount specified in relation to that allowance in column (2) of Part IV of Schedule 4 to the Act.

²2A. Where—

³(a) a beneficiary is a member of a couple; and[◀]

- (i) spouses residing together; or
- (ii) an unmarried couple; and

(b) the other ³member of the couple[◀] had earnings in any week,

the beneficiary's right to payment of increases for the following week under paragraph 2 above shall be determined in accordance with paragraph 2B below.

2B. No increase shall be payable—

- (a) in respect of the first child where the earnings were ⁴£220[◀] or more; and
- (b) in respect of a further child for each complete ⁴£29[◀] by which the earnings exceeded ⁴£220[◀].

⁵2BB. The provisions of paragraphs 2A and 2B above shall not apply so as to affect entitlement to an increase of ¹carer's allowance[◀] in respect of a child in any case where the beneficiary—

- (a) was entitled to receive such an increase immediately before 26th November 1984; and
- (b) throughout the period from and including that date to the date of coming into operation of this paragraph was, or but for the operation of those paragraphs would have been, continuously so entitled,

until such time as he would otherwise first cease to be so entitled.[◀]

2C. In this Part of this Schedule—

⁶[◀]

⁶“couple” means—

- (a) a man and woman who are married to each other and are members of the same household;
- (b) a man and woman who are not married to each other but are living together as husband and wife;
- (c) two people of the same sex who are civil partners of each other and are members of the same household; or
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners,
and for the purposes of paragraph (d), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex;[◀]

²Para. 2A, 2B and 2C inserted by reg. 3(c) of S.I. 1984/1699 as from 26.11.84.

³In para. 2A, sub-para. (a) substituted & word in sub-para. (b) substituted by para. 7(7)(a) of Sch. 3 to S.I. 2005/2877 as from 10.4.06.

⁴Amounts substituted in para. 2B of Sch. 2 by reg. 4 of S.I. 2013/599 as from 8.4.13.

⁵Para. 2BB inserted by reg. 5(a) of S.I. 1987/355 as from 6.4.87.

⁶In para. 2C defn. of “unmarried couple” omitted & “couple” inserted by para. 7(7)(b) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

Sch. 2

¹Defn. of “week” substituted in para. 2C by reg. 17(b) of S.I. 1996/2745 as from 25.11.96.

²Words substituted in paras. 3, 5, 6 & 7 by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

³In para. 4(a)(ii) & 7(a) words inserted by reg. 7(7)(c) & (d) of Sch. 3 to S.I. 2005/2877 as from 5.12.05.

⁴Words substituted in para. 6 & 7 by reg. 5 of S.I. 2011/2425 as from 31.10.11.

⁵Sub-para. (a) and (b) substituted retrospectively from 22.12.84 by Social Security Act 1986 (c. 50), s. 37(2).

⁶Sub-para. (a) of para. 7 substituted by reg. 5(a) of S.I. 1988/554 as from 11.4.88.

⁷Words inserted in para. 7(b), (b)(i) & (b)(iii) by reg. 2(4) of S.I. 2006/692 as from 10.4.06.

⁸Words omitted by reg. 5(b) of S.I. 1987/355 as from 6.4.87.

⁹Head (iii) of para. 7(b) substituted by reg. 5(b) of S.I. 1988/554 as from 11.4.88.

▶¹“week” means any period of 7 days corresponding to the week in respect of which the relevant social security benefit is due to be paid or ending on the day before the first day of the first such week following the date of claim.◀◀

3. Where a person is entitled to receive payment of an amount by way of an increase of ▶²a carer’s allowance◀ under paragraph 2 above, that increase shall not be payable unless one of the following conditions is satisfied—

- (a) that the beneficiary would be treated for the purposes of the Child Benefit Act as having the child living with him; or
- (b) that the requisite contributions are being made to the cost of providing for the child.

4. The condition specified in paragraph 3(b) above is to be treated as satisfied if, but only if—

- (a) such contributions are being made at a weekly rate not less than the amount referred to in paragraph 2 above—
 - (i) by the beneficiary, or
 - (ii) where the beneficiary is one of two spouses ▶³or civil partner◀ residing together, by them together; and
- (b) the contributions are over and above those required for the purposes of satisfying subsection (1)(b) of section 3 of the Child Benefit Act.

5. Any sum or sums paid by a person by way of contribution towards the cost of providing for two or more children being children in respect of whom, in the period for which the sum in question is paid by the person, he is entitled to child benefit shall be treated as such contributions, of such respective amounts equal in the aggregate to the said sum or sums, in respect of those children so as to secure as large a payment as possible by way of ▶²carer’s allowance◀ in respect of them.

PART II

Increase of ▶²carer’s allowance◀ for adult dependants

6. For the purposes of increases of ▶²carer’s allowance◀ for adult dependants under ▶⁴section 90 of the Contributions and Benefits Act(a)◀, the prescribed circumstances in which a beneficiary is entitled to such an increase for any period shall be as set out in paragraph 7 below.

7. The weekly rate of ▶²a carer’s allowance◀ shall be increased by the amount specified in relation to that allowance in column (3) of Part IV of Schedule 4 to ▶⁴the Contributions and Benefits Act◀ for any period during which the beneficiary is residing with—

- ▶⁵▶⁶(a) a spouse ▶³or civil partner◀ whose weekly earnings do not exceed that amount;◀ or
- (b) some person (not being a child ▶⁷or qualifying young person◀) who—
 - (i) has the care of a child or children ▶⁷or a qualifying young person or persons◀ in respect of whom the beneficiary is entitled to child benefit ▶⁸◀◀ ;
 - (ii) is not undergoing imprisonment or detention in legal custody;
 - ▶⁹(iii) if he has earnings, does not have weekly earnings exceeding that amount and for this purpose there shall be disregarded any weekly earnings derived from employment by the beneficiary in caring for a child or children ▶⁷or a qualifying young person or persons◀ in respect of whom the beneficiary is entitled to child benefit;◀

(a) Section 49 of the Social Security Act 1975 (c. 14) was repealed, along with the rest of that Act, by the Social Security (Consequential Provisions) Act 1992 (c. 6), section 3 and Schedule 1. It was substantively re-enacted in respect of increases for adult dependants by section 90 of the Social Security Contributions and Benefits Act 1992. Section 90 was repealed but continued with savings by virtue of article 4 of S.I. 2000/2958. The remaining provisions of section 90 (in relation to carer’s allowance) were repealed on 6th April 2010 with savings by section 15 of the Welfare Reform Act 2009 (c. 24).

(iv) is not absent from Great Britain, except for any period during which the person is residing with the beneficiary outside Great Britain and for which the beneficiary is entitled to ▶¹a carer’s allowance.◀◀

8. A person who is entitled to an increase of ▶¹a carer’s allowance◀ under paragraph 7(a) above shall not be entitled to an increase of that benefit under paragraph 7(b) above.

▶²9.—(1) Subject to sub-paragraph (2) below in this Schedule any reference to earnings includes a reference to payments by way of ▶³occupational or personal pension◀▶⁴or PPF periodic payment.◀

(2) Sub-paragraph (1) above shall not apply so as to affect entitlement to an increase of ▶¹carer’s allowance◀ in respect of a child or adult dependant in any case where the beneficiary—

- (a) was entitled to receive such an increase immediately before this paragraph came into operation; and
- (b) but for the operation of sub-paragraph (1) above would continue to be so entitled.

until such time as he would first otherwise cease to be so entitled.◀

¹Words substituted in paras. 7, 8 & 9 by Sch. 2 of S.I. 2002/2497 as from 1.4.03.

²Para. 9 inserted by reg. 5(c) of S.I. 1987/355 as from 6.4.87.

³Words substituted in para. 9(1) by reg. 2 of S.I. 1989/1690 as from 9.10.89, subject to saving in reg. 4(3) *ibid.*

⁴Words inserted in para. 9(1) by reg. 2(3) of S.I. 2006/1069 as from 5.5.06.

SCHEDULE 3

Regulation 16

REGULATIONS REVOKED

<i>Citation</i> (1)	<i>Statutory instrument</i> (2)	<i>Extent of revocation</i> (3)
The Social Security (Widow’s Benefit and Retirement Pensions) Regulations 1974	S.I. 1974/2059 (1974 III, p.8028)	Regulation 13
The Social Security (General Benefit) Regulations 1974	S.I. 1974/2079 (1974 III, p. 8113)	Regulations 3 to 10
The Social Security (Miscellaneous and Consequential Provisions) Regulations 1975	S.I. 1975/458 (1975 I, p. 1401)	Regulation 4
The Social Security (Maternity Benefit) Regulations 1975	S.I. 1975/553 (1975 I, p. 1910)	Regulation 8(3)
The Social Security (Industrial Injuries) (Benefit) Regulations 1975	S.I. 1975/559 (1975 I, p. 1979)	Regulations 24 to 32 and in Schedule 4 the reference to regulation 25 and the words “the wife of the beneficiary or, as the case may be, was” and “the husband of the beneficiary or, as the case may be, was”

REGULATIONS REVOKED—*continued*

<i>Citation</i> (1)	<i>Statutory instrument</i> (2)	<i>Extent of revocation</i> (3)
The Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1975	S.I. 1975/564 (1975 I, p.2062)	Regulations 13 and 15
The Social Security (Non-Contributory Invalidity Pension) Regulations 1975	S.I. 1975/1058 (1975 II, p. 3691)	Regulations 9 and 10(2) and in Schedule 1, the entries for regulations 4 to 10.
The Social Security (Relaxation of Earnings Rules) Regulations 1975	S.I. 1975/2126 (1975 III, p. 7930)	Regulation 3
The Social Security (Invalid Care Allowance) Regulations 1976	S.I. 1976/409 (1976 I, p. 1087)	Regulations 12 and 13 and in Schedule 1, the entries for regulations 5(2) and (3), 8(1) and 9.
The Social Security (Miscellaneous Amendments) Regulations 1976	S.I. 1976/1736 (1976 III, p. 4596)	Regulation 6(5) and (6)
The Social Security (Industrial Injuries) (Benefit) (Amendment) Regulations 1977	S.I. 1977/341	The whole of the Regulations
The Social Security (Child Benefit Consequential) Regulations 1977	S.I. 1977/342	Regulations 2, 3, 5(2) to (7), 7(7) to (9), 18(3) and (4) and 20

EXPLANATORY NOTE

(This Note is not part of the Regulations)

These Regulations are made for the purpose only of consolidating provisions dealing with dependency benefit which are revoked in Schedule 3 to these Regulations. Accordingly, by virtue of paragraph 20 of Schedule 15 and paragraph 12 of Schedule 16 to the Social Security Act 1975, they have been referred neither to the National Insurance Advisory Committee nor to the Industrial Injuries Advisory Council.

The subject matter of each regulation is shown in the table of arrangement at the beginning of the Regulations.