

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;

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

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

(a) 1975 c. 14.

(b) 1975 c. 61.

(c) S.I. 1977/342.(1977 I, p.1033)

“the determining authority” means, as the case may require, an insurance officer appointed under section 97(1) of the Act, a local tribunal constituted under section 97(2) of the Act, or a Commissioner;

“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) (a) regulations 2, 3, 4, 5, 9(1) and (2)(d), 10 and 11(1) shall apply to non-contributory invalidity pension as they apply to an invalidity pension;
- (b) regulations 2(2) and (3), 4 and 5(1) shall, with any necessary modifications, apply to invalid care allowance as they apply to an invalidity pension.
- (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 unemployed, or incapable of work, or, as the case may be, retired from regular employment, contributes towards the maintenance of that person an amount not less than the amount of increase of benefit received in respect of that person; and
- (b) when in employment, or not incapable of work, or, as the case may be, not so retired (except in a case where the dependency did not arise until after that time) contributed more than half of the actual cost of maintenance of that person.
- (2) 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 purposes of the Act be deemed to be wholly or mainly maintained by that one of the said other persons who—

- (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 wife or children

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 wife 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), 43(1)(b), 44(1)(a), 45(2)(b), 65(1), 66(1)(a) or 70(4) (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 wife or any child or children to whom this regulation refers, as may be determined by the determining authority so as to secure as large a payment as possible by way of benefit in respect of dependants.

(2) A sum paid by way of contribution towards the maintenance of a wife shall not be treated by virtue of this regulation as a sum paid by way of contribution towards the cost of providing for a child or children, and a sum paid by way of contribution towards the cost of providing for a child or children shall not be so treated as a sum paid by way of contribution towards the maintenance of a wife, unless in either case the wife 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 varied on review from time to time by the determining authority so often as may be necessary to secure as large a payment as possible by way of the child's special allowance, so however that no such review shall affect entitlement in respect of any period before the date of the review; and

- (c) 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.

Deeming benefit under the Act abated under section 12(2) of the Supplementary Benefit Act 1976 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 mentioned in section 12(1)(a) of the Supplementary Benefit Act 1976(a) (benefit (other than a maternity grant or a death grant) under Part II of the Act) 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 the provisions of section 12(2) of the said Act of 1976 (further provision for preventing duplication of supplementary and other benefits), then in determining for the purposes of the Act whether A is wholly or mainly maintaining or is contributing at any weekly rate to the maintenance of, or 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.

PART II

CHILD DEPENDANTS

Contribution towards cost of providing for child

5.—(1) Where, apart from section 43(1), 65(1) or 70(4), a person is entitled to receive, in respect of a particular child, payment under the Act of an amount by way of a 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 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(4) 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.

(4) Where for the purposes of section 41, 49(a) or 64(1) (benefit for beneficiary's dependent children) a beneficiary, being a man, is entitled to an increase under the said section 41, 49(a) or 64(1) in respect of both a child regarded for the purposes of the Child Benefit Act as living with him and a child who is not to be so regarded but who is the elder or eldest child, he shall be deemed for the purposes of section 43(1) or 65(1) to be making the requisite contribution to the cost of providing for such elder or eldest child if he contributes at a rate not less than the lowest rate at which the particular increase or allowance becomes payable in his case.

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

6.—(1) For the purposes of section 38 (guardian's allowance) or sections 41, 49 and 64(1) (benefit for beneficiary's 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 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.

(2) For the purposes of section 41, 49(a) or 64(1), where a beneficiary is a man, he shall be treated as if he were entitled to child benefit in respect of any child not living with him of whom he is a parent if—

- (a) the person who is entitled to child benefit in respect of that child is that man's wife or former wife and is also a parent of that child; and
- (b) he is contributing to the cost of providing for that child at a rate which is at least equal to the lowest amount at which any benefit specified in the second column of Part IV of Schedule 4 to the Act is payable.

(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 but for the fact that in pursuance of any agreement with the government of a country outside the United Kingdom he, or his wife 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.

(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.

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

7.—(1) For the purposes of section 31 (child’s special allowance), section 38 (guardian’s allowance) or sections 41, 49 and 64(1) (benefit for beneficiary’s dependent children) a person who is entitled to child benefit in respect of a child shall be treated as if he were not so entitled for—

(a) any period throughout which—

(i) that person, not being a parent of the child, does not fall to be treated as responsible for the child under section 3(1)(a) of the Child Benefit Act, and

(ii) a parent of that child falls to be treated as responsible for the child under the said section 3(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 3(1)(a) of the Child Benefit Act, and

(ii) a parent of that child also falls to be treated as responsible for the child under the said section 3(1)(a); or

(c) any day following the day on which that child died.

(2) Sub-paragraph (b) of paragraph (1) shall not apply in the case of a person who is wholly or mainly maintaining the child referred to in that sub-paragraph.

PART III

ADULT DEPENDANTS

Increase of benefit in respect of wife and computation of earnings

8.—(1) A beneficiary (not being a beneficiary who is entitled to an unemployment supplement and is residing with his wife) shall not be entitled to an increase of benefit in respect of his wife under section 66 (increase of benefit in respect of adult dependants) for any period during which his wife is engaged in any gainful employment from which her weekly earnings exceed the standard rate of increase.

(2) For the purpose of section 66(4) (beneficiary entitled to unemployment supplement and residing with his wife) the earnings of the wife of a beneficiary shall be calculated or estimated in accordance with the provisions of the Social Security Benefit (Computation of Earnings) Regulations 1974(a) as if the manner and basis of the calculation or estimate were for the purposes of an invalidity pension.

(3) In the case of a disablement pension payable to a beneficiary who is entitled to an unemployment supplement, the week by reference to which earnings of the wife shall be calculated shall be the calendar week ending last before any week for which the beneficiary is entitled to a disablement pension.

(a) S.I. 1974/2008 (1974 III, p. 7017).

Increase of benefit for dependent relatives and further conditions applicable

9.—(1) For the purposes of section 44(3)(b), 47(1)(b) or 66(1)(c) (increase of benefit in respect of a relative of a beneficiary subject to such further conditions as may be prescribed) the relatives shall be the persons who bear any such relationship to the beneficiary as is specified in Schedule 1 to these regulations and shall include any person who would be such a relative if some person born illegitimate had been born legitimate.

(2) The following further conditions shall apply in relation to any such relative as is mentioned in the foregoing paragraph and as respects increases under the said section 44(3)(b), 47(1)(b) or 66(1)(c)—

- (a) where any such relative is a man, an increase shall not be payable in respect of him for any period other than a period during which he is incapable of self-support;
- (b) where any such relative is a woman, an increase shall not be payable in respect of her for any period during which she is engaged in any gainful employment from which her weekly earnings exceed the standard rate of increase;
- (c) where any such relative is a married woman, an increase shall not be payable in respect of her for any period other than a period during which—
 - (i) she is not residing with and is unable to obtain any financial assistance from her husband, or
 - (ii) her husband is incapable of self-support and is not entitled to an increase of benefit in respect of her under the Act;
- (d) an increase shall not be payable for any period during which any such relative is—
 - (i) undergoing imprisonment or detention in legal custody, or
 - (ii) absent from Great Britain, except in the case of sickness benefit, invalidity pension, injury benefit or disablement pension where the beneficiary is entitled to unemployability supplement, for any period during which that relative is residing with the beneficiary outside Great Britain and for which by virtue of the provisions of regulation 2 or 9 of the Social Security Benefit (Persons Abroad) Regulations 1975(a), the beneficiary is not disqualified for receiving the benefit in question.

Increase of benefit for female person having care of child

10.—(1) Subject to the provisions of section 44 (increase of unemployment or sickness benefit or of a maternity allowance), section 46 (increase of a Category A or Category C retirement pension or an invalidity pension), or section 66 (increase of injury benefit or 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 female person who has the care of a child or children in respect of whom the beneficiary is entitled to child benefit.

(a) S.I. 1975/563 (1975 I, p. 2052).

(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 female person referred to in those sections—

- (a) has the care of such a child as is referred to in those sections, being a child in respect of whom the beneficiary is entitled to an increase of benefit or would be so entitled but for the provisions of any regulations made under section 85 (overlapping benefits); and
- (b) either—
 - (i) is residing with the beneficiary, or
 - (ii) is employed by him in an employment in respect of which the weekly expenses incurred by the beneficiary are not less than the standard rate of increase and was so employed by him before he became unemployed or incapable of work or retired from regular employment, as the case may be, subject to the qualification that the condition of employment before that event shall not apply in a case where the necessity for her employment first arose thereafter; or
 - (iii) is a person to whose maintenance the beneficiary is contributing at a weekly rate not less than the standard rate of increase; and
- (c) subject to paragraph (3), is not absent from Great Britain; and
- (d) is not undergoing imprisonment or detention in legal custody; and
- (e) subject to paragraph (4), is not employed in any employment (other than her employment by the beneficiary in caring for a child or children in respect of whom the beneficiary is entitled to child benefit) from which her weekly earnings exceed the standard rate of increase, so however that this condition shall not apply to a person who is employed by the beneficiary and is not residing with him.

(3) In the case of sickness benefit, injury benefit, or 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 female 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.

(4) Where a beneficiary who is entitled to unemployability supplement, an invalidity pension, or a Category A or Category C retirement pension has any such female person residing with him and the earnings of such female person (other than her earnings from any employment by the beneficiary in caring for a child or children in respect of whom the beneficiary is entitled to child benefit) for the calendar week ending last before any week for which he is entitled to benefit exceeded the first sum specified in section 45(3) as from time to time amended, or, in the case of a beneficiary entitled to benefit under section 66, exceeded the first sum specified in section 66(4) as from time to time amended, the weekly rate of the increase of pension under section 46(2) or, as the case may be, the weekly rate of benefit under section 66 shall for the last-mentioned week be reduced—

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

(5) For the purpose of the last preceding paragraph, the weekly earnings of a female person who is residing with a beneficiary entitled to unemployment supplement shall be calculated or estimated in such manner and on such basis as is prescribed by regulation 8(2) for the purposes of the said section 66 in relation to the earnings of a wife.

Contribution to maintenance of adult dependant

11.—(1) Subject to paragraphs (2) and (3), for the purposes of section 44(1), 45(2) or 66(1)(a) (increase of unemployment benefit, sickness benefit, an invalidity pension or a Category A or Category C retirement pension or benefit to which section 66 applies in respect of a wife) or of regulation 10(2)(b)(iii) (increase of unemployment benefit, sickness benefit, an invalidity pension or a Category A or Category C retirement pension or benefit to which section 66 applies in respect of a female person having the care of a child)—

- (a) a beneficiary shall not be deemed to satisfy the requirement contained in the said sections or the said regulation that he is contributing to the maintenance of the wife or the female person, as the case may be, at a weekly rate of not less than the standard rate of increase unless when in employment, or not incapable of work, or not retired from regular employment, as the case may be (except in a case where the dependency did not arise until later), he contributed to her maintenance at a weekly rate of not less than the standard rate of increase;
- (b) in a case where an increase of benefit is, apart from the said requirement, payable at a weekly rate less than the standard rate of increase, a beneficiary shall, subject to sub-paragraph (a) above, be deemed to satisfy the said requirement if he is contributing to the maintenance of the wife or female person, as the case may be, at a weekly rate of not less than that of the increase.

(2) Where, within one month of having been entitled to an increase of unemployment benefit, sickness benefit or injury benefit under section 44(1) or section 66(1)(a) or under section 44(3)(c) or section 66(1)(d) 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), a person becomes entitled to a benefit which attracts a standard rate of increase higher than that of the benefit to which he had been entitled, he shall be deemed to satisfy the condition in paragraph (1)(a) if he satisfies it in relation to the benefit to which he had been entitled; and in this paragraph “entitled” includes deemed to have been entitled.

(3) For the purposes of paragraph (2) a person shall be deemed to have been entitled to an increase of unemployment benefit or sickness benefit at a lower standard rate of increase if (assuming satisfaction of the relevant contribution conditions) he would have been so entitled but for the provisions of section 44(1)(b) or, as the case may be, regulation 10(2)(e).

PART IV

MISCELLANEOUS

Prescribed circumstances for purposes of section 49

12.—(1) The provisions of Chapter III of Part II of the Act (increases for dependants) shall apply in relation to increases of non-contributory invalidity pension for child or adult dependants under section 49 as they apply to increases of invalidity pension for child or adult dependants.

(2) For the purposes of increases of invalid care allowance for child or adult 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 Schedule 2 to these regulations.

Increase of unemployment benefit, sickness benefit and invalidity pension for persons over pensionable age

13. Where, by virtue of section 14(6) (unemployment and sickness benefit for persons over pensionable age) or section 15(4) (invalidity pension for persons over pensionable age), a person who is over pensionable age is entitled to unemployment or sickness benefit or invalidity pension in respect of any day for which he would have been entitled to a retirement pension only by virtue of section 33 (partial satisfaction of contribution conditions) the weekly rate of any increase of the said unemployment or sickness benefit or invalidity pension under section 41 (benefit for beneficiary's dependent children) section 44(1) or (3)(c) (increase of benefit for adult dependants) shall be that at which that increase would have been payable if the benefit to be increased had been the retirement pension to which that person would have been so entitled.

Increase of maternity allowance where contribution conditions are not satisfied in full

14. The amount of any increase of a maternity allowance payable by virtue of regulation 8 of the Social Security (Maternity Benefit) Regulations 1975(a)—

- (a) in the case of an increase under section 41 (child dependants) shall be the same as if both contribution conditions set out in paragraph 3 of Schedule 3 to the Act were satisfied;
- (b) in the case of an increase under section 44(2) (adult dependants) shall be a percentage of the amount of maternity allowance specified in column (4) 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.

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,

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

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 the Child Benefit Act) unless subsequent to 4th April 1977 he becomes ordinarily resident in Great Britain.

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.

Stanley Orme,

Minister for Social Security,
Department of Health and Social Security.

1st March 1977.

Regulation 9

SCHEDULE 1

PRESCRIBED RELATIONSHIPS

(a) Lineal descendant or ascendant in a direct line; and

(b) stepfather	sister
stepmother	half-brother
stepson	half-sister
stepdaughter	stepbrother
brother	stepsister

and

(c) where the beneficiary is a man, the father or mother of any woman who is, or was at her death, the wife of the beneficiary; and

(d) where the beneficiary is a woman, the father or mother of any man who is, or was at his death, the husband of the beneficiary.

Regulation 12(2)

SCHEDULE 2

PRESCRIBED CIRCUMSTANCES FOR INCREASE OF AN INVALID CARE ALLOWANCE

PART I

Increase of invalid care allowance for child dependants

1. For the purposes of increases of invalid care 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 an invalid care 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.

3. Where a person is entitled to receive payment of an amount by way of an increase of an invalid care 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 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 invalid care allowance in respect of them.

PART II

Increase of invalid care allowance for adult dependants

6. For the purposes of increases of invalid care allowance for adult 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 paragraph 7 below.

7. The weekly rate of an invalid care allowance shall be increased by the amount specified in relation to that allowance in column (3) of Part IV of Schedule 4 to the Act for any period during which the beneficiary is residing with—

- (a) his wife and she is not engaged in any one or more employments from which her weekly earnings exceed that amount; or
- (b) some female person (not being a child) who—
 - (i) has the care of a child or children in respect of whom the beneficiary is entitled to child benefit being a child or children in respect of whom he is entitled to an increase of an invalid care allowance or would be so entitled but for the provisions of any regulation for the time being in force under the Act relating to overlapping benefits; or
 - (ii) is not undergoing imprisonment or detention in legal custody; or
 - (iii) is not engaged in any one or more employments (other than her employment by the beneficiary in caring for a child or children in respect of whom the beneficiary is entitled to child benefit) from which her weekly earnings exceed that amount; or
 - (iv) is not absent from Great Britain, except for any period during which she is residing with the beneficiary outside Great Britain and for which the beneficiary is entitled to an invalid care allowance.

8. A person who is entitled to an increase of an invalid care allowance under paragraph 7(a) above shall not be entitled to an increase of that benefit under paragraph 7(b) above.

Regulation 16

SCHEDULE 3

REGULATIONS REVOKED

Citation (1)	Statutory instrument (2)	Extent of revocation (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"
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 (1977 I, p.1031)	The whole of the Regulations
The Social Security (Child Benefit Consequential) Regulations 1977	S.I. 1977/342 (1977 I, p.1033)	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.

SI 1977/343
ISBN 0-11-070343-X



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