
STATUTORY INSTRUMENTS

1982 No. 1408

The Social Security (General Benefit) Regulations 1982

PART I
GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (General Benefit) Regulations 1982 and shall come into operation 4th November 1982.

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

“the Act” means the Social Security Act 1975;

^{F1}
...

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

“child benefit” means benefit under Part I of the Child Benefit Act;

[^{F2}“determining authority” means, as the case may require, the Secretary of State, [^{F3}the First-tier Tribunal or the Upper Tribunal;]]

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

“industrial injuries benefit” means ^{F4}... disablement benefit and industrial death benefit payable under section 50 of the Act;

“parent” has the meaning assigned to it by section 24(3) of the Child Benefit Act(1);

[^{F5}“shared additional pension” means a shared additional pension under section 55A [^{F6}or 55AA] of the Social Security Contributions and Benefits Act 1992;]

“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 of the benefit in question for an adult dependant;

“the Workmen's Compensation Act” means the Workmen's Compensation Acts 1925 to 1945, or the enactments repealed by the Workmen's Compensation Act 1925 or the enactments repealed by the Workmen's Compensation Act 1906;

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

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

(a) to a numbered section is to the section of the Act bearing that number;

(b) to 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.

(1) Section 24(3)(c) was repealed by the Children Act 1975 (c. 72), Schedule 4, Part I.

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Textual Amendments

- F1** Words in reg. 1(2) omitted (coming into force in accordance with art. 1-3 of the amending S.I.) by virtue of The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2017 (S.I. 2017/422), arts. 1(2), **8(2)**
- F2** Words in reg. 1(2) substituted (25.11.1999) by The Social Security Act 1998 (Commencement No. 12 and Consequential and Transitional Provisions) Order 1999 (S.I. 1999/3178), reg. 3(1)(a), **Sch. 3 para. 1** (with reg. 3(1)(b), Schs. 21-23)
- F3** Words in reg. 1(2) substituted (3.11.2008) by The Tribunals, Courts and Enforcement Act 2007 (Transitional and Consequential Provisions) Order 2008 (S.I. 2008/2683), art. 1, **Sch. 1 para. 24**
- F4** Words in reg. 1(2) omitted (6.4.1983) by virtue of The Social Security (Abolition of Injury Benefit) (Consequential) Regulations 1983 (S.I. 1983/186), regs. 1(1), **13(2)**
- F5** Words in reg. 1(2) inserted (6.7.2005) by The Social Security (Shared Additional Pension) (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/1551), regs. 1(1)(a), **7(2)** (with reg. 10)
- F6** Words in reg. 1(2) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **7**

Exceptions from disqualification for imprisonment etc

2.—(1) The following provisions of this regulation shall have effect to except benefit from the operation of section 82(5)(b) of the Act which provides that (except where regulations otherwise provide) a person shall be disqualified for receiving any benefit and an increase of benefit shall not be payable in respect of any person as the beneficiary's [^{F7}spouse or civil partner], for any period during which that person is undergoing imprisonment or detention in legal custody (hereinafter in this regulation referred to as "the said provisions").

(2) The said provisions shall not operate to disqualify a person for receiving [^{F8}incapacity benefit], [^{F9}attendance allowance, disability living allowance], widow's benefit, [^{F10}widowed parent's allowance], child's special allowance, maternity allowance, [^{F11}a shared additional pension,] retirement pension of any category, age addition, [^{F12}severe disablement allowance]^{F13}... disablement benefit, [^{F14}reduced earnings allowance, retirement allowance] or industrial death benefit or to make an increase of benefit not payable in respect of a person as the beneficiary's [^{F15}spouse or civil partner], for any period during which that person is undergoing imprisonment or detention in legal custody in connection with a charge brought or intended to be brought against him in criminal proceedings, or pursuant to any sentence or order for detention made by a court in such proceedings, unless, in relation to him, a penalty is imposed at the conclusion of those proceedings or, in the case of default of payment of a sum adjudged to be paid on conviction, a penalty is imposed in respect of such default.

(3) The said provisions shall not operate to disqualify a person for receiving any benefit (not being a guardian's allowance or death grant), or to make an increase of benefit not payable in respect of a person as the beneficiary's [^{F16}spouse or civil partner], for any period during which that person [^{F17}("P")] is undergoing detention in legal custody after the conclusion of criminal proceedings if it is a period during which [^{F18}P is detained in a hospital or similar institution in Great Britain as a person suffering from mental disorder unless P satisfies either of the following conditions.]

[^{F19}(a) he is detained or liable to be detained under section 45A of the Mental Health Act 1983 (hospital and limitation directions) or section 59A of the Criminal Procedure (Scotland) Act 1995 (hospital direction); or]

[^{F19}(b) he is detained or liable to be detained under section 47 of the Mental Health Act 1983 (removal to hospital of persons serving sentences of imprisonment, etc.) or section 136

of the Mental Health (Care and Treatment) (Scotland) Act 2003 (transfer of prisoners for treatment for mental disorder).]

[^{F20}(4) The first condition is that—

- (a) P is being detained under section 45A or 47 of the Mental Health Act 1983 (power of higher courts to direct hospital admission; removal to hospital of persons serving sentences of imprisonment etc.); and
- (b) in any case where there is in relation to P a release date within the meaning of section 50(3) of that Act, P is being detained on or before the day which the Secretary of State certifies to be that release date.

(4A) The second condition is that P is being detained under—

- (a) section 59A of the Criminal Procedure (Scotland) Act 1995 (hospital direction); or
- (b) section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (transfer of prisoners for treatment of mental disorder).]

(5) The said provisions shall not operate to disqualify a person for receiving a guardian's allowance or death grant.

[^{F21}(6) Subject to paragraph (7), the said provisions shall not operate to disqualify a person for receiving disablement benefit, other than any increase of that benefit, for any period during which he is undergoing imprisonment or detention in legal custody.]

(7) The amount payable by virtue of the last preceding paragraph by way of any disablement pension or pensions in respect of any period, other than a period in respect of which that person is excepted from disqualification by virtue of the provisions of paragraph (3) of this regulation, during which that person is and has continuously been undergoing imprisonment or detention in legal custody, shall not exceed the total amount payable by way of such pension or all such pensions for a period of one year.

(8) For the purposes of this regulation—

- (a) “court” means any court in the United Kingdom, the Channel Islands or the Isle of Man or in any place to which the Colonial Prisoners Removal Act 1884 applies [^{F22}or the Court Martial, or the Court Martial Appeal Court];
- (b) “hospital or similar institution” means any place (not being a prison, a detention centre, a Borstal institution, a young offenders institution or a remand centre, and not being at or in any such place) in which persons suffering from mental disorder are or may be received for care or treatment;
- (c) “penalty” means a sentence of imprisonment, Borstal training or detention under section 53 of the Children and Young Persons Act 1933 or under 1937 c. 37 section 57(3) of the Children and Young Persons (Scotland) Act 1937 or under section 208(3) and 416(4) of the Criminal Proceedings (Scotland) Act 1975 or an order for detention in a detention centre;
- (d) in relation to a person who is liable to be detained in Great Britain as a result of any order made under the Colonial Prisoners Removal Act 1884, references to a prison shall be construed as including references to a prison within the meaning of that Act;

^{F23}(e)

^{F24}(f)

- (g) criminal proceedings against any person shall be deemed to be concluded upon his being found insane in those proceedings so that he cannot be tried or his trial cannot proceed.

(9) Where a person outside Great Britain is undergoing imprisonment or detention in legal custody and, in similar circumstances in Great Britain, he would have been excepted, by the operation of any of the preceding paragraphs of this regulation, from disqualification under the said provisions

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(referred to in paragraph (1)) for receiving the benefit claimed, he shall not be disqualified for receiving that benefit by reason only of his said imprisonment or detention.

(10) Paragraph (9) applies to increases of benefit not payable under the said provisions as it applies to disqualification for receiving benefit.

Textual Amendments

- F7** Words in reg. 2(1) substituted (5.12.2005) by [The Social Security \(Civil Partnership\) \(Consequential Amendments\) Regulations 2005 \(S.I. 2005/2878\)](#), regs. 1, **3(2)**
- F8** Words in reg. 2(2) substituted (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), regs. 1(1), **16** (with Pt. III)
- F9** Words in reg. 2(2) substituted (6.4.1992) by [The Disability Living Allowance and Disability Working Allowance \(Consequential Provisions\) Regulations 1991 \(S.I. 1991/2742\)](#), regs. 1(1), **8(3)**
- F10** Words in reg. 2(2) substituted (coming into force in accordance with art. 1-3 of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2017 \(S.I. 2017/422\)](#), arts. 1(2), **8(3)**
- F11** Words in reg. 2(2) inserted (6.7.2005) by [The Social Security \(Shared Additional Pension\) \(Miscellaneous Amendments\) Regulations 2005 \(S.I. 2005/1551\)](#), regs. 1(1)(a), **7(3)** (with reg. 10)
- F12** Words in reg. 2(2) substituted (29.11.1984) by [The Social Security \(Severe Disablement Allowance\) Regulations 1984 \(S.I. 1984/1303\)](#), regs. 1, 11, **Sch. 2**
- F13** Words in reg. 2(2) omitted (6.4.1983) by virtue of [The Social Security \(Abolition of Injury Benefit\) \(Consequential\) Regulations 1983 \(S.I. 1983/186\)](#), regs. 1(1), **13(2)**
- F14** Words in reg. 2(2) substituted (24.3.1996) by [The Social Security \(Industrial Injuries and Diseases\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/425\)](#), regs. 1, **4(a)**
- F15** Words in reg. 2(2) substituted (5.12.2005) by [The Social Security \(Civil Partnership\) \(Consequential Amendments\) Regulations 2005 \(S.I. 2005/2878\)](#), regs. 1, **3(2)**
- F16** Words in reg. 2(3) substituted (5.12.2005) by [The Social Security \(Civil Partnership\) \(Consequential Amendments\) Regulations 2005 \(S.I. 2005/2878\)](#), regs. 1, **3(2)**
- F17** Word in reg. 2(3) inserted (25.3.2010) by [The Social Security \(Persons Serving a Sentence of Imprisonment Detained in Hospital\) Regulations 2010 \(S.I. 2010/442\)](#), regs. 1, **2(2)(a)(i)**
- F18** Words in reg. 2(3) substituted (25.3.2010) by [The Social Security \(Persons Serving a Sentence of Imprisonment Detained in Hospital\) Regulations 2010 \(S.I. 2010/442\)](#), regs. 1, **2(2)(a)(ii)**
- F19** Reg. 2(3)(a)(b) substituted (10.4.2006 for specified purposes) by [The Social Security \(Hospital In-Patients\) Regulations 2005 \(S.I. 2005/3360\)](#), regs. 1(b), **3(a)**
- F20** Reg. 2(4)(4A) substituted for reg. 2(4) (25.3.2010) by [The Social Security \(Persons Serving a Sentence of Imprisonment Detained in Hospital\) Regulations 2010 \(S.I. 2010/442\)](#), regs. 1, **2(2)(b)**
- F21** Reg. 2(6) substituted (24.3.1996) by [The Social Security \(Industrial Injuries and Diseases\) \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/425\)](#), regs. 1, **4(b)**
- F22** Words in reg. 2(8)(a) substituted (31.10.2009) by [The Armed Forces Act 2006 \(Consequential Amendments\) Order 2009 \(S.I. 2009/2054\)](#), art. 1(2), **Sch. 1 para. 9** (with Sch. 2 para. 5)
- F23** Reg. 2(8)(e) omitted (10.4.2006 for specified purposes) by virtue of [The Social Security \(Hospital In-Patients\) Regulations 2005 \(S.I. 2005/3360\)](#), regs. 1(b), **3(c)**
- F24** Reg. 2(8)(f) omitted (10.4.2006 for specified purposes) by virtue of [The Social Security \(Hospital In-Patients\) Regulations 2005 \(S.I. 2005/3360\)](#), regs. 1(b), **3(c)**

Suspension of payment of benefit during imprisonment etc

3.—(1) Subject to the following provisions of this regulation, the payment to any person of any benefit—

- (a) which is excepted from the operation of section 82(5)(b) of the Act by virtue of the provisions of regulation 2(2), (5) or (6) or by any of those paragraphs as applied by regulation 2(9); or
- (b) which is payable otherwise than in respect of a period during which he is undergoing imprisonment or detention in legal custody;

shall be suspended while that person is undergoing imprisonment or detention in legal custody.

(2) Paragraph (1) shall not operate to require the payment of any benefit to be suspended while the beneficiary is liable to be detained in a hospital or similar institution as defined in regulation 2(8) (b) during a period for which in his case, benefit to which regulation 2(3) applies is or would be excepted from the operation of the said section 82(5) by virtue of the provision of regulation 2(3) .

(3) A guardian's allowance or death grant, or any benefit to which paragraph (1)(b) applies may nevertheless be paid while the beneficiary is undergoing imprisonment or detention in legal custody to any person appointed for the purpose by the Secretary of State to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Secretary of State and the National Insurance Fund for any sum so paid.

(4) Where, by virtue of this regulation, payment of benefit under Chapter IV or V of Part II of the Act is suspended for any period, the period of suspension shall not be taken into account in calculating any period under the provisions of regulation 22 of the Social Security (Claims and Payments) Regulations 1979 (extinguishment of right to sums payable by way of benefit which are not obtained within the prescribed time).

Interim payments by way of benefit under the Act

4.—(1) Where, under arrangements made by the Secretary of State with the consent of the Treasury, payment by way of benefit has been made pending determination of a claim for it without due proof of the fulfilment of the relevant conditions or otherwise than in accordance with the provisions of the Act and orders and regulations made under it, the payment so made shall, for the purposes of those provisions, but subject to the following provisions of this regulation, be deemed to be a payment of benefit duly made.

(2) When a claim for benefit in connection with which a payment has been made under arrangements such as are referred to in paragraph (1) above is determined by a determining authority—

- (a) if that authority decides that nothing was properly payable by way of the benefit in respect of which the payment was made or that the amount properly payable by way of that benefit was less than the amount of the payment, it may, if appropriate, direct that the whole or part of the overpayment be treated as paid on account of benefit (whether benefit under the Act or the Supplementary Benefits Act 1976(2)) which is properly payable, but subject as aforesaid shall require repayment of the overpayment; and
- (b) if that authority decides that the amount properly payable by way of the benefit in respect of which the payment was made equals or exceeds the amount of that payment, it shall treat that payment as paid on account of the benefit properly payable.

(3) Unless before a payment made under arrangements such as are mentioned in paragraph (1) above has been made to a person that person had been informed of the effect of sub-paragraph (a) of paragraph (2) above as it relates to repayment of an overpayment, repayment of an overpayment shall not be required except where the determining authority is satisfied that [F25]he, or any person acting

(2) the Act (other than sections 31, 32, 35 and 36 and Schedules 4 and 6 to 8) as amended is set out in Part II of Schedule 2 to the Social Security Act 1980 (c. 30).

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for him has, whether fraudulently or otherwise, misrepresented or failed to disclose any material fact and that the interim payment has been made in consequence of the misrepresentation or failure].

(4) An overpayment required to be repaid under the provisions of this regulation shall, without prejudice to any other method of recovery, be recoverable by deduction from any benefit then or thereafter payable to the person by whom it is to be repaid or any persons entitled to receive his benefit on his death.

Textual Amendments

F25 Words in reg. 4(3) substituted (6.4.1987) by [Social Security \(Payments on account, Overpayments and Recovery\) Regulations 1987 \(S.I. 1987/491\)](#), regs. 1, 19(2), **Sch. Pt. II**

Deduction of benefit required to be repaid

^{F26}**5.**

Textual Amendments

F26 Regs. 5-7 revoked (6.4.1987) by [Social Security \(Payments on account, Overpayments and Recovery\) Regulations 1987 \(S.I. 1987/491\)](#), regs. 1, 19(1), **Sch. Pt. I**

Set-off of benefit against earlier payment of dependency benefit

^{F26}**6.**

Textual Amendments

F26 Regs. 5-7 revoked (6.4.1987) by [Social Security \(Payments on account, Overpayments and Recovery\) Regulations 1987 \(S.I. 1987/491\)](#), regs. 1, 19(1), **Sch. Pt. I**

Repayment by a person who has received payment of benefit on behalf of a beneficiary

^{F26}**7.**

Textual Amendments

F26 Regs. 5-7 revoked (6.4.1987) by [Social Security \(Payments on account, Overpayments and Recovery\) Regulations 1987 \(S.I. 1987/491\)](#), regs. 1, 19(1), **Sch. Pt. I**

Rounding of sums payable by way of benefit

^{F27}**8.**

Textual Amendments

F27 Reg. 8 revoked (11.4.1988) by [The Social Security \(Claims and Payments\) Regulations 1987 \(S.I. 1987/1968\)](#), regs. 1, 48, **Sch. 10**

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