

1987 No. 355

SOCIAL SECURITY

**The Social Security Benefit (Dependency) Amendment
Regulations 1987**

<i>Made - - - -</i>	<i>5th March 1987</i>
<i>Laid before Parliament</i>	<i>16th March 1987</i>
<i>Coming into force</i>	<i>6th April 1987</i>

The Secretary of State for Social Services in exercise of the powers conferred upon him by sections 49, 84(1) and 166 of, and Schedule 20(a), to the Social Security Act 1975(b) and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee(c), hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Social Security Benefit (Dependency) Amendment Regulations 1987 and shall come into force on 6th April 1987.

Amendment of the Social Security Benefit (Dependency) Regulations 1977

2. The Social Security (Dependency) Regulations 1977(d) ("the principal Regulations") shall be amended in accordance with the following provisions of these Regulations.

Amendment of regulation 4B of the principal regulations

3. After paragraph (2) of regulation 4B of the principal regulations (circumstances in which a person entitled to child benefit is to be treated as if he were not so entitled) there shall be inserted the following paragraph—

"(3) For the purposes of sections 31(b) (child's special allowance), 38(1) (guardian's allowance), 41, 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) and 70(1)(a)(ii) (industrial death benefit) a person who is entitled to child benefit in respect of a child shall be treated as not so entitled for any period for which that benefit is not payable by virtue of any of the provisions of regulations 7 (circumstances in which a person who has ceased to receive full-time education is to continue to be treated as a child), 7A (exclusion from benefit of children aged 16 but under the age of 19 who are receiving advanced education), 7B (child receiving financial support under the Employment and Training Act 1973) or 7C (child receiving supplementary benefit) of the Child Benefit (General) Regulations 1976(e)."

(a) See the definitions of "Entitled to child benefit" and "Regulations".
(b) 1975 c.14; the definition of "Entitled to child benefit" was inserted in Schedule 20 by the Child Benefit Act 1975 (c.61), Schedule 4, paragraph 38.
(c) See the Social Security Act 1980 (c.30), section 10.
(d) S.I. 1977/343; the relevant amending instruments are S.I.'s 1980/585 and 1984/1698.
(e) S.I. 1976/965; the relevant amending instruments are S.I.'s 1977/534, 1980/1045 and 1982/470.

Amendment of regulation 11 of the principal regulations

4. Regulation 11 (contribution to maintenance of adult dependant) shall be amended as follows—

- (a) in paragraph (2) the words “or section 66(1)(a)” and “or section 66(1)(d)” shall be omitted;
- (b) after paragraph (2) there shall be inserted the following paragraph—

“2A. Where, within one month of having been entitled to an increase of unemployment benefit or sickness 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, 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.”; and
- (c) in paragraph (3) for “paragraph (2)” there shall be substituted “paragraphs (2) and (2A)” and at the end there shall be added “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.”.

Amendment of Schedule 2 to the principal regulations

5. Schedule 2 to the principal regulations shall be amended as follows—

- (a) after paragraph 2B of that Schedule there shall be inserted the following paragraph—

“2BB. The provisions of paragraphs 2A and 2B above shall not apply so as to affect entitlement to an increase of invalid care 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.”;
- (b) in paragraph 7(b)(i)(a) of that Schedule all the words after “child benefit” shall be omitted; and
- (c) at the end of that Schedule there shall be added the following paragraph—

“9.—(1) Subject to sub-paragraph (2) below in this Schedule any reference to earnings includes a reference to payments by way of occupational pension.

(2) Sub-paragraph (1) above shall not apply so as to affect entitlement to an increase of invalid care 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.”.

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

5th March 1987

John Major
Minister of State, Department of Health and Social Security

(a) As substituted by section 37(2) of the Social Security Act 1986 (c.50).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Social Security Benefit (Dependency) Regulations 1977.

Regulation 3 inserts a new paragraph (3) into regulation 4B so as to provide that, for the purposes of those provisions of the Social Security Act 1975 relating to child's special allowance, guardian's allowance, increases of benefit for dependent children and persons having the care of dependent children and industrial death benefit, a person entitled to child benefit in respect of a child (which is normally a condition of entitlement to an increase under those provisions) shall be treated as not so entitled for any period when that benefit is not payable because the child is in employment, or between the ages of 16 and 19 and receiving advanced education, or receiving a training allowance or supplementary benefit.

Regulation 4 amends regulation 11 by removing obsolete references in paragraph 2. It also inserts a new paragraph (2A). This provides that a woman who is not residing with her husband but who was entitled to an increase of unemployment or sickness benefit in respect of him because she was contributing to his maintenance at not less than the standard rate of that increase, and who within one month becomes entitled to another benefit which attracts a higher rate of increase, shall be deemed to be contributing to her husband's maintenance at that higher rate if she continues to contribute at the lower rate.

Regulation 5 makes three amendments to Schedule 2. The first provides that the provisions of paragraphs 2A and 2B (which provide for the reduction of increases of invalid care allowance in respect of dependent children by reference to the earnings of a spouse or other partner) shall not apply if the beneficiary would, but for those provisions, have continuously been entitled to receive the increase from before 26th November 1984 (when paragraphs 2A and 2B came into operation) to the date of coming into operation of these regulations. The disapplication is to continue until the first occasion when the beneficiary would cease to so be entitled for some other reason. The second amendment omits the requirement in paragraph 7(b)(i) that to be entitled to an increase of invalid care allowance in respect of an adult having the care of a child the beneficiary must be entitled to an increase of that allowance in respect of that child. The third amendment adds a new paragraph 9 to the Schedule which provides that any reference in the Schedule to earnings includes a reference to payments by way of occupational pension but not so as to affect entitlement to an increase of invalid care allowance in those cases where the beneficiary was so entitled immediately before the paragraph came into operation until such time as he first otherwise ceases to be so entitled.

The report of the Social Security Advisory Committee dated 17th December 1986 on the draft of these Regulations referred to them, together with a statement showing that the Regulations give effect to the Committee's recommendations, is contained in Command Paper No. 106 published by Her Majesty's Stationery Office.