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STATUTORY INSTRUMENTS

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**1994 No. 2556**

**SOCIAL SECURITY**

**The Social Security (Severe Disablement Allowance and Invalid Care Allowance) Amendment Regulations 1994**

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| <i>Made</i>                   | - - - - | <i>3rd October 1994</i>  |
| <i>Laid before Parliament</i> |         | <i>7th October 1994</i>  |
| <i>Coming into force</i>      | - -     | <i>28th October 1994</i> |

The Secretary of State in exercise of the powers conferred on him by subsection (2) of section 2 of the European Communities Act 1972<sup>(1)</sup>, being designated for the purposes of that subsection in respect of matters relating to the equal treatment of men and women in relation to severe disablement allowance and invalid care allowance<sup>(2)</sup>, hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Social Security (Severe Disablement Allowance and Invalid Care Allowance) Amendment Regulations 1994 and shall come into force on 28th October 1994.

**Amendment of sections 68 and 70 of and Schedule 6 to the Social Security Contributions and Benefits Act 1992**

2.—(1) The Social Security Contributions and Benefits Act 1992<sup>(3)</sup> shall be amended in accordance with the following provisions of this regulation.

(2) In section 68 (entitlement to and rate of severe disablement allowance)—

- (a) in subsection (4)(d) for “pensionable age” there shall be substituted “the age of 65”;
- (b) in subsection (11)(a)(i) for “retiring age” there shall be substituted “the age of 65”; and
- (c) in subsection (13) the words ““retiring age” means 70 in the case of a man and 65 in the case of a woman,” shall be omitted.

(3) In section 70 (invalid care allowance)—

- (a) in subsection (5) for “pensionable age” there shall be substituted “the age of 65”;

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(1) 1972 c. 68.  
(2) S.I.1993/1571.  
(3) 1992 c. 4.

- (b) in subsection (6) for “retiring age” there shall be substituted “the age of 65”; and
- (c) subsection (10) shall be omitted.

(4) In Schedule 6 (assessment of extent of disablement) the words “, if a woman, or 70, if a man” at the end of paragraph 4(1) shall be omitted.

#### **Amendment of Schedules 1 and 2 to the Social Security (Incapacity for Work) Act 1994**

**3.—**(1) The Social Security (Incapacity for Work) Act 1994<sup>(4)</sup> shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph 18 of Schedule 1 (consequential amendments)—

(a) for sub-paragraphs (6) and (7) substitute—

“(6) Omit subsections (12) and (13).”.

(3) In Schedule 2 (repeals) for paragraph (b) in the repeals made to section 68 of the Social Security Contributions and Benefits Act 1992 substitute—

“(b) subsections (12) and (13)”.

#### **Amendment of the Social Security (Severe Disablement Allowance) Regulations 1984**

**4.—**(1) The Social Security (Severe Disablement Allowance) Regulations 1984<sup>(5)</sup> shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (interpretation) after “1975,” the word “and” shall be omitted and at the end there shall be added—

“and “the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992<sup>(6)</sup>”

(3) In the heading to regulation 4 and in that regulation for “pensionable age” there shall be substituted “the age of 65”.

(4) After regulation 4 there shall be inserted—

#### **“Women aged 65 before 28th October 1994**

**4A.—**(1) A woman shall be entitled to a severe disablement allowance if—

- (a) she attained the age of 65 before 28th October 1994;
- (b) immediately before attaining the age of 65 she would have satisfied the requirements for entitlement to a severe disablement allowance or, if she attained that age before 29th November 1984, to a non-contributory invalidity pension (whether or not she made a claim) but for—
  - (i) the condition, which applied prior to 28th October 1994, in section 68(4)(d) of the Contributions and Benefits Act (exclusion of persons who had attained pensionable age and had not been entitled to a severe disablement allowance immediately before attaining that age)<sup>(7)</sup>; or
  - (ii) the corresponding condition in respect of non-contributory invalidity pension<sup>(8)</sup>; and

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<sup>(4)</sup> 1994 c. 18.

<sup>(5)</sup> S.I. 1984/1303; to which there are amendments not relevant to these Regulations.

<sup>(6)</sup> 1992 c. 4.

<sup>(7)</sup> See regulation 2(2) of the Social Security (Severe Disablement Allowance and Invalid Care Allowance) Amendment Regulations 1994 (S.I. 1994/2556) which amended section 68(4)(d) by substituting “the age of 65” for “pensionable age”.

<sup>(8)</sup> See section 36(4) of the Social Security Act 1975 prior to the abolition of non-contributory invalidity pension and the substitution of a new section 36 by section 11 of the Health and Social Security Act 1984 (c. 48).

(c) she satisfies the requirements for entitlement to a severe disablement allowance apart from the conditions in section 68(2), (3) and (4)(d) of the Contributions and Benefits Act.

(2) For the purposes of paragraph (1)(b) there shall be excluded from the requirements for entitlement to a non-contributory invalidity pension the condition that the claimant, if she were married or cohabiting with a man, be incapable of performing normal household duties.”.

(5) In the heading to regulation 5 and in paragraph (a) of that regulation for “retiring age” there shall be substituted “the age of 65”.

(6) After regulation 5 there shall be inserted—

**“Men aged 65 before 28th October 1994**

**5A.** A man who—

- (a) attained the age of 65 before 28th October 1994; and
- (b) was entitled to a severe disablement allowance or a non-contributory invalidity pension immediately before he attained that age,

shall be entitled to a severe disablement allowance notwithstanding that he ceased to satisfy the conditions specified in section 68(2) or (3) of the Contributions and Benefits Act after he attained that age, if he satisfies the other requirements for entitlement to that allowance<sup>(9)</sup>.”.

(7) In regulation 7(1) for “retiring age” there shall be substituted “the age of 65”.

(8) In regulation 20(3) for “retiring age” there shall be substituted “the age of 65”.

**Amendment of the Social Security (Invalid Care Allowance) Regulations 1976**

**5.—**(1) The Social Security (Invalid Care Allowance) Regulations 1976<sup>(10)</sup> shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (interpretation) after “1975” there shall be inserted “, “the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992<sup>(11)</sup>”.

(3) In the heading to regulation 10 and in that regulation for “pensionable age” there shall be substituted “the age of 65”.

(4) After regulation 10 there shall be inserted—

**“Women aged 65 before 28th October 1994**

**10A.** A woman shall be entitled to an invalid care allowance if—

- (a) she attained the age of 65 before 28th October 1994;
- (b) immediately before attaining the age of 65 she would have satisfied the requirements for entitlement to an invalid care allowance, whether or not she made a claim, but for the condition, which applied prior to 28th October 1994, in section 70(5) of the Contributions and Benefits Act<sup>(12)</sup> (exclusion of persons who had attained pensionable age and had not been entitled to that allowance immediately before attaining that age); and

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<sup>(9)</sup> See S.I. 1994/2556, which substituted “the age of 65” for “retiring age” in section 68 with effect from 28th October 1994.

<sup>(10)</sup> S.I. 1976/409; to which there are amendments not relevant to these Regulations.

<sup>(11)</sup> 1992 c. 4.

<sup>(12)</sup> See S.I. 1994/2556, regulation 2 which substituted “the age of 65” for “pensionable age” in section 70 with effect from 28th October 1994.

(c) she satisfies the requirements for entitlement to an invalid care allowance apart from the conditions in section 70(1)(a) and (b) and (5) of the Contributions and Benefits Act.”.

(5) In the heading to regulation 11 and in that regulation for “retiring age” there shall be substituted “the age of 65”.

(6) After regulation 11 there shall be inserted—

**“Men aged 65 before 28th October 1994**

**11A.** A man who—

(a) attained the age of 65 before 28th October 1994; and

(b) was entitled to an invalid care allowance immediately before he attained that age,

shall be entitled to that allowance notwithstanding that, after he attained that age, he was not caring for a severely disabled person or no longer satisfied the requirements of section 70(1) (a) or (b) of the Contributions and Benefits Act, if he satisfies the other requirements for entitlement to that allowance<sup>(13)</sup>.”.

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

Department of Social Security  
3rd October 1994

*William Hague*  
Minister of State,

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(13) See S.I. [1994/2556](#), which substituted “the age of 65” for “retiring age” in section 70, with effect from 28th October 1994.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations implement Council Directive [79/7/EEC](#) (OJNo. L 6, 10.1.79, p. 24) on the progressive implementation of the principle of equal treatment for men and women on matters of social security, by removing certain age differences between men and women in the conditions of entitlement to severe disablement allowance and invalid care allowance.

Regulation 2 amends sections 68 and 70 of, and Schedule 6 to, the Social Security Contributions and Benefits Act 1992 by removing references to “pensionable age” and “retiring age”(which are different for men and women) and substituting “the age of 65”.

Regulation 3 makes consequential amendments to Schedules 1 and 2 to the Social Security (Incapacity for Work) Act 1994.

Regulations 4 and 5 substitute “the age of 65” for the terms “pensionable age” and “retiring age” in the Social Security (Severe Disablement Allowance) Regulations 1984 and the Social Security (Invalid Care Allowance) Regulations 1976. They also insert in those regulations transitional provisions relating to persons over 65 on the coming into force of these Regulations.

These Regulations do not impose any costs on business.