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STATUTORY INSTRUMENTS

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**2010 No. 788**

**SOCIAL SECURITY**

**The Social Security Benefit (Persons Abroad) (Amendment) Regulations 2010**

<i>Made</i>	- - - -	<i>15th March 2010</i>
<i>Laid before Parliament</i>		<i>16th March 2010</i>
<i>Coming into force</i>	- -	<i>6th April 2010</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 113(1)(a) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup>.

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it<sup>(2)</sup>.

**Citation and commencement**

1. These Regulations may be cited as the Social Security Benefit (Persons Abroad) (Amendment) Regulations 2010 and shall come into force on 6th April 2010.

**Amendment of the Social Security Benefit (Persons Abroad) Regulations 1975**

2. The Social Security Benefit (Persons Abroad) Regulations 1975<sup>(3)</sup> are amended as follows.
3. In Regulation 1(2) (citation, commencement and interpretation)—
- (a) remove the definition of “her husband”;
  - (b) after the definition of “the Industrial Injuries Employment Regulations” insert the definition,  
“the other party” in the case of a person who has been married or been in a civil partnership more than once, refers to the person by virtue of whose contributions that person is entitled to the benefit in question;

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(1) [1992 c.4](#). Section 113(1) of the Social Security Contributions and Benefits Act [1992 \(c.4\)](#) was amended by paragraph 38 of Part 3 of Schedule 24 to the Civil Partnership Act [2004 \(c.33\)](#).

(2) Section 173(1)(b) of the Social Security Administration Act [1992 \(c.5\)](#) provides that proposals in respect of regulations which would otherwise be referable to the Social Security Advisory Committee may not be so referred with the agreement of that Committee. These Regulations would otherwise be so referable by virtue of section 172 of that Act.

(3) [S.I. 1975/563](#); relevant amending instruments are [S.I. 1977/342](#), [S.I. 1979/1432](#), [S.I. 1988/435](#), [S.I. 1989/1642](#), [S.I. 1992/1700](#), [S.I. 1994/1832](#), [S.I. 2000/2876](#), [S.I. 2001/2618](#), [S.I. 2005/1551](#) and [S.I. 2005/2877](#).

4.—(1) Regulation 4 (modification of the Act in relation to widow’s benefit, bereavement benefit, child’s special allowance, guardian’s allowance and retirement pension) is amended in accordance with this regulation.

(2) In paragraphs (2)(b), (2A)(c) and (2B)(c), for “the Act” substitute “the Contributions and Benefits Act”.

(3) In paragraph (3)—

- (a) for the words from “section 9(2)” to “married women)” substitute “section 51A(2) or 52(2) of the Contributions and Benefits Act (special provision for married people and for surviving spouses)”;
- (b) for “section 6(1)(a) of the Social Security Pensions Act 1975” substitute “section 44(4) of the Contributions and Benefits Act”; and
- (c) for “paragraph 9 of Part 1 of Schedule 4 to the Act” substitute “paragraph 5 of Part 1 of Schedule 4 to the Contributions and Benefits Act”.

(4) In paragraph (4)—

- (a) for “section 9(3) of the Social Security Pensions Act 1975” substitute “section 52(3) of the Contributions and Benefits Act”; and
- (b) for the words from “regulation 2” to “Regulations 1979” substitute “regulation 3 of the Social Security (Maximum Additional Pension) Regulations 2010”(4).

5.—(1) Regulation 5 (application of disqualification in respect of up-rating of benefit) is amended in accordance with this regulation.

(2) In paragraph (1), for the words from “section 63” to “pensions)” substitute “section 150 (annual up-rating of benefits) or 150A (annual uprating of basic pension etc and standard minimum guarantee) of the Social Security Administration Act 1992”(5).

(3) In paragraph (3)—

- (a) in sub-paragraph (a)—
  - (i) for “woman”, where that word first appears, substitute “person”;
  - (ii) for “married woman” substitute “married person or a civil partner”; and
  - (iii) for “her husband” substitute “the other party to the marriage or civil partnership”;
- (b) in sub-paragraph (aa)—
  - (i) for “married woman” substitute “married person or a civil partner”;
  - (ii) for “her husband” substitute “the other party to the marriage or civil partnership”; and
  - (iii) for “she was married to him” substitute “they were married to each other or were civil partners of each other”;

(c) after sub-paragraph (b) insert—

“(ba) in the case of a married person or civil partner entitled to a Category B retirement pension under section 48A of the Contributions and Benefits Act (Category B retirement pension for a married person or a civil partner), other than a case that falls within sub-paragraphs (a) to (b), any additional Category B retirement pension where immediately before the appointed date that person’s spouse or civil partner was not ordinarily resident in Great Britain;”.

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(4) [S.I. 2010/426](#).

(5) [1992 c.5](#).

Signed by authority of the Secretary of State

15th March 2010

*Angela Eagle*  
Minister of State  
Department for Work and Pensions

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations amend the Social Security Benefit (Persons Abroad) Regulations 1975 ([S.I. 1975/563](#)) (“the 1975 Regulations”).

Regulation 3 amends definitions in regulation 1 of the 1975 Regulations. Regulations 4 and 5 of these Regulations amend regulations 4 and 5 of the 1975 Regulations to update the references in those regulations to current enactments following repeal or revocation and re-enactment.

The Pensions Act [2007 \(c.22\)](#) and the Civil Partnership Act [2004 \(c.33\)](#) amended section 48A (Category B retirement pension for a married person or a civil partner) of the Social Security Contributions and Benefits Act [1992 \(c.4\)](#) to remove the condition that a person is only entitled to a Category B retirement pension under that section once that person’s spouse or civil partner has become entitled to a Category A retirement pension.

Regulation 5(3)(a) and (b) of these Regulations amend regulation 5(3)(a) and (aa) of the 1975 Regulations to extend those provisions to married men and civil partners.

Regulation 5(3)(c) of these Regulations inserts a new sub-paragraph (ba) into regulation 5(3) of the 1975 Regulations to provide that, in cases other than those where sub-paragraphs (a) to (b) apply, a person entitled to a Category B retirement pension does not receive any additional benefit payable by virtue of an up-rating order if neither that person nor that person’s spouse or civil partner was ordinarily resident in Great Britain immediately before that order came into force.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sector.