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STATUTORY INSTRUMENTS

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**1977 No. 343**

**The Social Security Benefit (Dependency) Regulations 1977**

**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 unemployability 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 unemployability 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 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 unemployability 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.

**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, 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.

(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 unemployability 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).