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STATUTORY INSTRUMENTS

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**1994 No. 1832**

**SOCIAL SECURITY**

**The Social Security Benefit (Persons Abroad)  
Amendment (No. 2) Regulations 1994**

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|-------------------------------|---------|------------------------|
| <i>Made</i>                   | - - - - | <i>11th July 1994</i>  |
| <i>Laid before Parliament</i> |         | <i>15th July 1994</i>  |
| <i>Coming into force</i>      | - -     | <i>6th August 1994</i> |

The Secretary of State for Social Security, in exercise of powers conferred by sections 113(1) and 175(1) to (4) of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup>, and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should not be referred to it<sup>(2)</sup>, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security Benefit (Persons Abroad) Amendment (No. 2) Regulations 1994 and shall come into force on 6th August 1994.

(2) In these Regulations “the principal Regulations” means the Social Security Benefit (Persons Abroad) Regulations 1975<sup>(3)</sup>.

**Amendment of regulation 5 of the principal Regulations**

2.—(1) Regulation 5 of the principal Regulations (application of disqualification in respect of up-rating of benefit) shall be amended in accordance with the following provisions of this regulation.

(2) At the beginning of paragraphs (3) and (6) there shall be inserted the words “Subject to paragraph (8) and the Schedule below,”.

(3) After sub-paragraph (3)(a) there shall be inserted the following sub-paragraph—

“(aa) in the case of a married woman, any additional Category B retirement pension if immediately before the appointed date her husband was entitled to a Category A

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(1) 1992 c. 4. See section 36 of the National Insurance Act 1965 (c. 51); this section is preserved in Schedule 1 to the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 (S.I.1978/393) and is to be construed in accordance with subsection (9).

(2) See section 173(1)(b) of the Social Security Administration Act 1992 (c. 5).

(3) S.I. 1975/563; relevant amending instruments are S.I. 1979/1432, 1988/435, 1989/1642, 1990/621 and 1992/1700.

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retirement pension and was not ordinarily resident in Great Britain (whether or not she was married to him immediately before that date);”.

(4) After paragraph (7) there shall be added the following paragraph—

“(8) The Schedule below shall have effect in relation to the disqualification of persons for receiving additional benefit in the circumstances specified in that Schedule (being certain cases in which a person was awarded a widow’s benefit or a retirement pension or a higher rate of retirement pension between 1st September 1985 and 7th August 1991).”.

**Addition of a Schedule to the principal Regulations**

**3.** To the principal Regulations there shall be added the Schedule set out in the Schedule to these Regulations.

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

11th July 1994

*William Hague*  
Parliamentary Under-Secretary of State,  
Department of Social Security

SCHEDULE

Regulation 3

“SCHEDULE

Regulation 5(8)

UP-RATING IN RESPECT OF CERTAIN AWARDS MADE  
BETWEEN 1ST SEPTEMBER 1985 AND 7TH AUGUST 1991

1. A person referred to in a case set out in column (1) shall not be disqualified by reason of being absent from Great Britain for receiving any additional widow’s benefit or retirement pension which became payable by virtue of an up-rating order which came into force on or before the date referred to in column (3) if—

- (a) the award referred to in column (1) was made during the period specified in column (2); and
- (b) immediately before 6th August 1994 that person was being paid a widow’s benefit or a retirement pension (as the case may be) at the rate current at the date referred to in column (3).

| (1)<br>Case   | (2)<br>Period in which award was made                        | (3)<br>Date after which disqualification to take effect  |
|---|--|--|
| 1. A woman who was awarded a widow’s benefit  | after 30th May 1988 but not later than 19th February 1990    | the date on which she became entitled to a widow’s benefit   |
| 2. A woman who had been receiving a Category B retirement pension and was awarded that pension at a higher rate after her husband’s death | after 13th September 1988 but not later than 6th August 1991 | the date of her husband’s death  |
| 3. A woman who was first awarded a Category B retirement pension on the death of her husband after she attained the age of 60             | after 31st January 1990 but not later than 6th August 1991   | the date on which she became entitled to a Category B retirement pension   |
| 4. A man who had been receiving a Category A retirement pension and was awarded a Category B retirement pension after his wife’s death    | after 16th November 1986 but not later than 6th August 1991  | the date on which he became entitled to a Category B retirement pension  |
| 5. A woman who had been receiving a Category B retirement pension and was awarded a Category A retirement pension                         | after 1st September 1985 but not later than 6th August 1991  | the date on which she became entitled to a Category A retirement pension   |
| 6. A person who   | after 16th November 1986 but not later than 6th August 1991  | the date on which that person first became entitled to a Category A retirement pension was awarded a Category A retirement pension determined by taking into |

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| (1)<br>Case | (2)<br>Period in which award was made | (3)<br>Date after which disqualification to take effect account the contributions of his or her former spouse under regulation 8 of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979(4) |
|-------------|---------------------------------------|---|
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2. In paragraph 1 “up-rating order” means an order which was made under section 124 of the Act or section 63 of the Social Security Act 1986(5).”

#### EXPLANATORY NOTE

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

These Regulations further amend the Social Security Benefit (Persons Abroad) Regulations 1975 (“the principal Regulations”) in the following respects—

- (a) they modify, by an amendment to regulation 5 of the principal Regulations, the extent to which a married woman who is not ordinarily resident in Great Britain is disqualified for up-rating of her Category B retirement pension (regulation 2(3)); and
- (b) they provide for regulation 5(3) and (6) of the principal Regulations to be subject to a new paragraph (8) and a new Schedule specifying the date after which disqualification for up-rating, during absence from Great Britain, is to take effect in respect of certain awards of widow’s benefit and retirement pension made between 1st September 1985 and 7th August 1991 (regulation 2(2) and (4) and regulation 3).

These Regulations do not impose any costs on business.

(4) S.I. 1979/642.

(5) Section 124 was repealed by Schedule 11 to, and replaced by section 63 of, the Social Security Act 1986 (c. 50); section 63 was repealed by Schedule 1 to the Social Security (Consequential Provisions) Act 1992 (c. 6) and re-enacted as sections 150(1) to (10) and 151(3) to (6) of the Social Security Administration Act 1992.