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STATUTORY INSTRUMENTS

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**1978 No. 433**

**SOCIAL SECURITY**

**The Social Security (Miscellaneous  
Amendments) Regulations 1978**

<i>Made</i>	- - - -	<i>16th March 1978</i>
<i>Laid before Parliament</i>		<i>21st March 1978</i>
<i>Coming into Operation</i>		<i>3rd April 1978</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 3(2), 49, 79(1), 84, 85 and 131 of the Social Security Act 1975 and section 80(2) of and Schedule 20 to that Act as amended by respectively section 17(2) of the Social Security (Miscellaneous Provisions) Act 1977 and section 21(1) of, and Schedule 4 to, the Child Benefit Act 1975 and of all other powers enabling him in that behalf, and after reference to the National Insurance Advisory Committee, hereby makes the following regulations:—

**Citation, commencement and interpretation**

1.—(1) These regulations may be cited as the Social Security (Miscellaneous Amendments) Regulations 1978 and shall come into operation on 3rd April 1978.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889 shall apply in relation to this instrument and in relation to the revocations effected by it as if this instrument and the regulations revoked by it were Acts of Parliament and as if the revocations were repeals.

**Amendment of the Social Security Benefit (Computation of Earnings) Regulations 1974**

2. In regulation 1 of the Social Security Benefit (Computation of Earnings) Regulations 1974 (citation, commencement and interpretation), in paragraph (2) in the definition of “gainful employment” after the words “self-employed earner” there shall be inserted the words “and any employment which would be such employment if it were in Great Britain”.

**Amendment of the Social Security (Overlapping Benefits) Regulations 1975**

3.—(1) The Social Security (Overlapping Benefits) Regulations 1975, as amended(1), shall be further amended in accordance with the following paragraphs.

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(1) The relevant amending instrument is S.I. 1977/342.

(2) In regulation 6 (adjustment of dependency benefit in respect of a child where other dependency benefit is payable for that child), in paragraph (1) after the words “specified in paragraph (2) is payable” there shall be inserted the words “to that or any other person”.

(3) For regulation 6A there shall be substituted the following regulation:—

**“Child benefit**

**6A.** Benefit under the Act shall not be required to be adjusted by reference to child benefit other than where an increase of child benefit is payable to a person who—

- (a) either has no spouse or is not residing with his spouse; and
- (b) is not living with any other person as his spouse,

and for the same period, in respect of the same child, any benefit or allowance or increase of a benefit or allowance under the Act is or, but for this regulation, would be payable to a beneficiary, the weekly rate of that benefit or allowance or increase thereof shall be reduced by the amount of the said increase of child benefit.”

(4) In regulation 12 (priority between persons entitled to an increase of benefit), in paragraph (3) (a) for the words “has been awarded child benefit in respect of a child” there shall be substituted the words “is entitled, otherwise than by virtue of regulations made under Schedule 20 to the Act, to child benefit in respect of the child”.

**Amendment of the Social Security (Claims and Payments) Regulations 1975**

**4.—(1)** The Social Security (Claims and Payments) Regulations 1975, as amended<sup>(2)</sup>, shall be further amended in accordance with the following paragraphs.

(2) In regulation 9 (interchange with claims for other benefits) in paragraph (5) there shall be added at the end the words “or an invalid care allowance”.

(3) In Schedule 1 (prescribed times for claiming benefits and disqualifications for benefit arising by reason of late claims)—

- (a) in column (1) in paragraph 3 after the words “invalidity pension,” there shall be inserted the words “maternity allowance.”;
- (b) in column (2) there shall be substituted—
  - (i) for paragraph 3 the following paragraph:—
 

“The period of 1 month from the day in respect of which the claim is made.”,
  - (ii) for paragraph 10 the following paragraph:—
 

“The period of 3 months from the first day on which the conditions for the receipt of that increase of benefit are satisfied.”;
- (c) in column (3) there shall be substituted for paragraph 3 the following paragraph:—
 

“Benefit in respect of any day more than 1 month before the date on which the claim is made.”.

(4) In Schedule 2 (miscellaneous provisions) in paragraph 2(1) there shall be added after sub-paragraph (b) the words:—

“, and where the person concerned claims an increase of that benefit or pension in respect of a child or adult dependant within the period of 1 month from the date of the claim to that benefit or pension, any such provision shall be deemed to be satisfied for the whole of the period in respect of which the claim to that benefit or pension is made.”.

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(2) The relevant amending instruments are S.I. 1975/1058; 1977/1361.

### **Amendment of the Social Security Benefit (Dependency) Regulations 1977**

5. In the Social Security Benefit (Dependency) Regulations 1977, as amended<sup>(3)</sup>,—
- (a) in regulation 6 (circumstances in which a person who is not entitled to child benefit is to be treated as if he were so entitled), in paragraph (2) after the words “in respect of any child” there shall be inserted the word “ordinarily”;
  - (b) in regulation 12 (prescribed circumstances for purposes of section 49 of the Social Security Act 1975), there shall be added at the end of paragraph (1) the words “except that section 47(1) shall not apply to a person over pensionable age entitled to non-contributory invalidity pension”.

### **Correction of the Social Security Benefit (Persons Abroad) Amendment Regulations 1977**

6. In regulation 3 of the Social Security Benefit (Persons Abroad) Amendment Regulations 1977 (amendment of the Social Security (Attendance Allowance) (No. 2) Regulations 1975 and the Mobility Allowance Regulations 1975), for the words “of each regulation” there shall be substituted the words “and paragraph (3) respectively”.

### **Revocations**

7. The regulations specified in column 1 of the Schedule to these regulations are hereby revoked to the extent mentioned in column 3 of that Schedule.

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

16th March 1978

*Stanley Orme*  
Minister for Social Security  
Department of Health and Social Security

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(3) There is no amendment relevant to the subject matter of this regulation.

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## SCHEDULE

Regulation 7

<i>Regulations revoked</i> 1	<i>Reference</i> 2	<i>Extent of revocation</i> 3
Social Security (Claims and Payments) Regulations 1975	S.I. 1975/560	Schedule 1, paragraph 4(e).
Social Security (Invalid Care Allowance) Regulations 1976	S.I. 1976/409	Regulation 17(2).
Social Security (Child Benefit Consequential) Regulations 1977	S.I. 1977/342	Regulation 10(4).
Social Security Benefit (Dependency) Regulations 1977	S.I. 1977/343	Regulation 5(4).

**EXPLANATORY NOTE**

These Regulations contain miscellaneous amendments to regulations made, or having effect as made, under the Social Security Act 1975.

The regulations further amend the Social Security (Overlapping Benefits) Regulations 1975 in their application to dependency benefit and child benefit, revise the provisions in the Social Security (Claims and Payments) Regulations 1975 relating to prescribed times for claiming dependency benefit and extend the circumstances set out in the Social Security Benefit (Dependency) Regulations 1977 in which a person is to be treated as entitled to child benefit during temporary periods of residence. The regulations also include minor and drafting amendments and revocations.

The Report of the National Insurance Advisory Committee, dated 13th March 1978, on the draft of these Regulations referred to them is contained in House of Commons Paper No. 314 (Session 1977/78) published by Her Majesty's Stationery Office.