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STATUTORY INSTRUMENTS

1979 No. 597

SOCIAL SECURITY

The Social Security (Overlapping Benefits) Regulations 1979

| | | |
|-------------------------------|---------|-----------------------|
| <i>Made</i> | - - - - | <i>29th May 1979</i> |
| <i>Laid before Parliament</i> | | <i>6th June 1979</i> |
| <i>Coming into Operation</i> | | <i>29th June 1979</i> |

The Secretary of State for Social Services, in exercise of powers conferred by sections 83(1) and 85 of the Social Security Act 1975 and of all other powers enabling him in that behalf hereby makes the following regulations which only consolidate the regulations herein revoked and which accordingly by virtue of paragraph 20 of Schedule 15 to the Social Security Act 1975, are not subject to the requirement of section 139(1) of that Act for prior reference to the National Insurance Advisory Committee:—

Modifications etc. (not altering text)

- C1** Instrument modified (2.4.1999) by [The New Deal \(25 plus\) \(Miscellaneous Provisions\) Order 1999 \(S.I. 1999/779\)](#), **arts. 1(1), 2(1)(c), (2), Sch.**
- C2** Instrument applied (5.10.2009) by [The Flexible New Deal \(Miscellaneous Provisions\) Order 2009 \(S.I. 2009/1562\)](#), **reg. 2(1)(c), Sch.**
- C3** Instrument applied (with modifications) (1.10.2010) by [The Employment and Support Allowance \(Transitional Provisions, Housing Benefit and Council Tax Benefit\) \(Existing Awards\) \(No. 2\) Regulations 2010 \(S.I. 2010/1907\)](#), **reg. 16(2)(e)(iii)(3)** (with **reg. 3**)

Citation and commencement

1. These regulations may be cited as the Social Security (Overlapping Benefits) Regulations 1979 and shall come into operation on 29th June 1979.

Interpretation

2.—(1) In these regulations, unless the context otherwise requires—

[^{F1}“the 2012 Act” means the Welfare Reform Act 2012;]

“the Act” means the Social Security Act 1975;

[^{F2}“the Contributions and Benefits Act” means the Social Security Contributions and Benefits Act 1992;]

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“the Pensions Act” means the Social Security Pensions Act 1975;

[^{F3}“armed forces independence payment” means a payment under Article 24A of the Armed Forces and Reserve Forces (Compensation Scheme) Order 2011]

“benefit under Chapters I and II of Part II of the Act” includes benefit treated as included in Chapter I of Part II of the Act by virtue of section 66(2)(b) of the Pensions Act;

[^{F4}“bereavement allowance” means an allowance referred to in section 39B of the Contributions and Benefits Act;]

“the Child Benefit Act” means the Child Benefit Act 1975;

“child benefit” means benefit under Part I of the Child Benefit Act;

[^{F5}“contribution-based jobseeker’s allowance” means an allowance under the Jobseekers Act as amended by the provisions of Part 1 of Schedule 14 to the 2012 Act that remove references to an income-based allowance, and a contribution-based allowance under the Jobseekers Act as that Act has effect apart from those provisions;]

[^{F6}“contributory benefit” means any benefit payable under Part II of the Contributions and Benefits Act, [^{F7}a contribution-based jobseeker’s allowance and a contributory employment and support allowance];]

[^{F8}“contributory employment and support allowance” means an allowance under Part 1 of the Welfare Reform Act as amended by the provisions of Schedule 3, and Part 1 of Schedule 14, to the 2012 Act that remove references to an income-related allowance, and a contributory allowance under Part 1 of the Welfare Reform Act as that Part has effect apart from those provisions;]

[^{F1}“the daily living component of personal independence payment” means a payment in accordance with section 78 of the 2012 Act;]

“death benefit” means any benefit, pension or allowance which, apart from these regulations, is payable (whether under the Act or otherwise) in respect of the death of any person;

“the deceased” means, in relation to any death benefit, the person in respect of whose death that benefit, apart from these regulations, is payable;

“dependency benefit” means that benefit, pension or allowance which, apart from these regulations, is payable (whether under the Act or otherwise) to a person in respect of another person who is a child or an adult dependant; it includes child's special allowance and any personal benefit by way of pension payable to a child under any Personal Injuries Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme but does not include benefit under section 73 of the Act (allowances to a woman who has care of children of person who died as a result of an industrial accident) [^{F9}or child tax credit under the Tax Credits Act 2002];

“disablement pension” includes a disablement payment on a pension basis and retired pay or pension in respect of any disablement, wound, injury or disease;

[^{F10}“the enhanced rate” in relation to the daily living component of personal independence payment means the rate prescribed in regulation 24(1)(b) of the Social Security (Personal Independence Payment) Regulations 2013;]

[^{F11}“income-based jobseeker’s allowance” means an income-based allowance under the Jobseekers Act;

“income-related employment and support allowance” means an income-related allowance under Part 1 of the Welfare Reform Act;]

[^{F12}“the Jobseekers Act” means the Jobseekers Act 1995;]

“personal benefit” means any benefit, pension or allowance^[F13], except a shared additional pension ^[F14](whether under the Act or otherwise),] which is not a dependency benefit ^[F15]or universal credit under Part 1 of the 2012 Act^[F16], and includes ^[F17]a contributory employment and support allowance but not an income-related employment and support allowance and includes] a contribution-based jobseeker’s allowance but not an income-based jobseeker’s allowance,] and which^[F14], apart from these regulations,] is payable to any person;

^[F14]“personal independence payment” means personal independence payment under Part 4 of the 2012 Act;]

“Personal Injuries Scheme” means any scheme made under the Personal Injuries (Emergency Provisions) Act 1939 or under the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939;

“Pneumoconiosis and Byssinosis Benefit Scheme” means any scheme made under section 5 of the Industrial Injuries and Diseases (Old Cases) Act 1975;

^[F18]“Service Pensions Instrument” means any instrument described in sub-paragraphs (a) or (b) below in so far, but only in so far, as the pensions or other benefits provided by that instrument are not calculated or determined by reference to length of service, namely:—

- (a) any instrument made in exercise of powers—
 - (i) referred to in section 12(1) of the Social Security (Miscellaneous Provisions) Act 1977 (pensions or other benefits for disablement or death due to service in the armed forces of the Crown); or
 - (ii) under section 1 of the Polish Resettlement Act 1947 (pensions and other benefits for disablement or death due to service in certain Polish forces); or
- (b) any instrument under which a pension or other benefit may be paid to a person (not being a member of the armed forces of the Crown) out of public funds in respect of death or disablement, wound, injury or disease due to service in any nursing service or other auxiliary service of any of the armed forces of the Crown, or in any other organisation established under the control of the Defence Council or formerly established under the control of the Admiralty, the Army Council or the Air Council.]

^[F19]“shared additional pension” means a shared additional pension under section 55A ^[F20]or 55AA] of the Contributions and Benefits Act;]

“training allowance” means an allowance (whether by way of periodical grants or otherwise) payable out of public funds by a Government department or by or on behalf of ^[F21]Scottish Enterprise, Highlands and Islands Enterprise^[F22], the ^{F23}... ^[F24]the Secretary of State], the National Assembly for Wales] or^[F25]the Secretary of State] to a person for his maintenance, or in respect of any dependant of his, for the period, or part of the period, during which he is following a course of training or instruction provided by, or in pursuance of arrangements made with, that department or approved by that department in relation to him or so provided or approved by or on behalf of ^[F21]Scottish Enterprise, Highlands and Islands Enterprise^[F26], the National Assembly for Wales] or] the said Commission ^[F27]but it does not include—

- (a) an allowance paid by any Government department to or in respect of a person by reason of the fact that he is following a course of full-time education or is training as a teacher; or
- (b) a payment made by or on behalf of ^[F21]Scottish Enterprise, Highlands and Islands Enterprise or] the Secretary of State to any person by way of training premium or training bonus in consequence of that person’s use of facilities for training provided in pursuance of arrangements made under section 2 of the Employment and Training Act 1973 ^[F28]or section 2 of the Enterprise and New Towns (Scotland) Act 1990].]

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“treatment allowance” means an allowance payable under a Personal Injuries Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme only to a person undergoing a course of medical, surgical or rehabilitative treatment in consequence of a disablement in respect of which a pension may be or has been paid, or an allowance payable to any such person pending the determination of the question whether he is entitled to receive such a pension;

“unemployability supplement” includes an increase on account of unemployability under—

- (a) any Pneumoconiosis and Byssinosis Benefit Scheme; and
- (b) any Personal Injuries Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme;

“war pension death benefit” means a death benefit by way of pension or allowance under any Personal Injuries Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme, but does not include a rent allowance or a grant payable by reason of the beneficiary being in receipt of a pension and being a specific age which is not less than 65 or a pension or an allowance calculated by reference to the necessities of the beneficiary;

“1914-1918 War Injuries Scheme” means any scheme made under the Injuries in War (Compensation) Act 1914 or under the Injuries in War Compensation Act 1914 (Session 2) or any Government scheme for compensation in respect of persons injured in any merchant ship or fishing vessel as the result of hostilities during the 1914-1918 War.

[^{F29}“the Welfare Reform Act” means the Welfare Reform Act 2007.]

[^{F30}“widowed mother’s allowance” means an allowance referred to in section 37 of the Contributions and Benefits Act (widowed mother’s allowance);]

[^{F4}“widowed parent’s allowance” means an allowance referred to in section 39A of the Contributions and Benefits Act;]

[^{F31}“widow’s pension” means a pension referred to in section 38 of the Contributions and Benefits Act (widow’s pension).]

(2) For the purposes of these regulations, unless otherwise specified, [^{F32}additional pension] payable by virtue of the Act or the Pensions Act shall be deemed to include any increase so far as attributable to any [^{F32}additional pension] or to any increase by virtue of section 126A of the Act or paragraph 4A of Schedule 1 to the Pensions Act or to any increase of graduated retirement benefit and shall be treated as a separate personal benefit included in Chapter I of Part II of the Act.

Textual Amendments

- F1** Words in reg. 2(1) inserted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 10(2)**
- F2** Words in reg. 2 inserted (13.1.1993) by [The Social Security \(Overlapping Benefits\) Amendment \(No. 2\) Regulations 1992 \(S.I. 1992/3194\)](#), regs. 1(1), **2**
- F3** Words in reg. 2 inserted (8.4.2013) by [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 3(2)(a)**
- F4** Words in reg. 2(1) inserted (9.4.2001) by [The Social Security \(Benefits for Widows and Widowers\) \(Consequential Amendments\) Regulations 2000 \(S.I. 2000/1483\)](#), regs. 1, **6(2)**
- F5** Words in reg. 2(1) inserted (29.4.2013) by [The Universal Credit \(Consequential, Supplementary, Incidental and Miscellaneous Provisions\) Regulations 2013 \(S.I. 2013/630\)](#), regs. 1(2), **25(a)**
- F6** Words in reg. 2(1) inserted (7.10.1996) by [The Social Security and Child Support \(Jobseeker’s Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **22(2)(a)**

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- F7** Words in reg. 2(1) substituted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **51(2)(a)**
- F8** Words in reg. 2(1) inserted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **25(b)**
- F9** Words in reg. 2(1) added (6.4.2003) by The Social Security (Working Tax Credit and Child Tax Credit) (Consequential Amendments) (No. 2) Regulations 2003 (S.I. 2003/937), regs. 1(a), **2(3)**
- F10** Words in reg. 2 inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 3(2)(b)**
- F11** Words in reg. 2(1) inserted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) Regulations 2013 (S.I. 2013/630), regs. 1(2), **25(c)**
- F12** Words in reg. 2(1) inserted (7.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Consequential Amendments) Regulations 1996 (S.I. 1996/1345), regs. 1, **22(2)(b)**
- F13** Words in reg. 2(1) inserted (6.7.2005) by The Social Security (Shared Additional Pension) (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/1551), regs. 1(1)(a), **5(a)** (with reg. 10)
- F14** Words in reg. 2(1) inserted (5.1.1981) by The Social Security (Overlapping Benefits) Amendment Regulations 1980 (S.I. 1980/1927), regs. 1, **2(a)**
- F15** Words in reg. 2(1) inserted (29.4.2013) by The Universal Credit (Consequential, Supplementary, Incidental and Miscellaneous Provisions) 2013 (S.I. 2013/630), regs. 1(2), **25(d)**
- F16** Words in reg. 2(1) inserted (7.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Consequential Amendments) Regulations 1996 (S.I. 1996/1345), regs. 1, **22(2)(c)**
- F17** Words in reg. 2(1) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **51(2)(b)**
- F18** Words in reg. 2(1) substituted (5.1.1981) by The Social Security (Overlapping Benefits) Amendment Regulations 1980 (S.I. 1980/1927), regs. 1, **2(b)**
- F19** Words in reg. 2(1) inserted (6.7.2005) by The Social Security (Shared Additional Pension) (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/1551), regs. 1(1)(a), **5(b)** (with reg. 10)
- F20** Words in reg. 2(1) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **4(2)(a)**
- F21** Words in reg. 2(1) added (1.4.1991) by The Enterprise (Scotland) Consequential Amendments Order 1991 (S.I. 1991/387), arts. 1, **5(a)**
- F22** Words in reg. 2(1) inserted (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **11(a)**
- F23** Words in reg. 2(1) omitted (1.5.2012) by virtue of The Young Peoples Learning Agency Abolition (Consequential Amendments to Subordinate Legislation) (England) Order 2012 (S.I. 2012/956), arts. 1, 2
- F24** Words in reg. 2(1) substituted (26.5.2015) by The Deregulation Act 2015 (Consequential Amendments) Order 2015 (S.I. 2015/971), art. 1(2)(a), **Sch. 3 para. 1**
- F25** Words in reg. 2(1) substituted (16.11.1989) by Employment Act 1989 (1989 c.38), **Sch. 5** para's 1, 4
- F26** Words in reg. 2(1) inserted (18.3.2005) by The Social Security, Child Support and Tax Credits (Miscellaneous Amendments) Regulations 2005 (S.I. 2005/337), regs. 1, **11(b)**
- F27** Words in reg. 2(1) substituted (5.9.1988) by The Social Security (Overlapping Benefits) Amendment Regulations 1988 (S.I. 1988/1446), regs. 1, 2
- F28** Words in reg. 2(1) inserted (1.4.1991) by The Enterprise (Scotland) Consequential Amendments Order 1991 (S.I. 1991/387), arts. 1, 2, **Sch.**
- F29** Words in reg. 2(1) inserted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **51(2)(c)**
- F30** Words in reg. 2(1) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **4(2)(b)**

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- F31** Words in reg. 2(1) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **4(2)(c)**
- F32** Words in reg. 2(2) substituted (6.4.1987) by [Social Security Act 1986 \(c. 50\)](#), reg. 1, s. **18(1)**

Special provisions for widow's benefit and invalidity pension

3.—^{F33}(1) This regulation applies where, apart from these regulations, there is payable for the same period to a person under pensionable age both—

- (a) an ^{F34}long-term incapacity benefit]; and
- (b) a widowed mother's allowance or widow's pension (hereafter referred to in this regulation as “the widow's benefit”).

(2) The total amount payable in respect of these benefits under this regulation shall be—

- ^{F35}(a) an amount equal to either the basic rate of long-term incapacity benefit referred to in regulation 18(1)(a) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 paid in a transitional case or an award of widow's basic pension calculated by reference to section 44(1) of the Contributions and Benefits Act or an amount equal to the greater of them]
- (b) the sum of the ^{F36}incapacity benefit payable at the additional rate in accordance with regulation 18(1)(b) of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 and widow's pension determined in accordance with section 44(3)(b) of the Contributions and Benefits Act] up to and not exceeding the maximum for the time being prescribed under section 9(3) of the Pensions Act.

(3) Subject to paragraph (4)—

- (a) where the beneficiary has made application, before the payment is made, that the total amount payable should be treated as being made up of the rate of the ^{F34}long-term incapacity benefit], any balance being the widow's benefit, it shall be so treated;
- (b) in any other case, that amount shall be treated as being made up of the rate of the widow's benefit, any balance being the ^{F34}long-term incapacity benefit].

(4) For the purposes of the remainder of these regulations (other than regulation 6(5)), which shall apply after adjustment has been made under this regulation, the total amount payable under this regulation shall be treated as a single long-term benefit payable on a weekly basis.]

Textual Amendments

- F33** Reg. 3 revoked (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), regs. 1(1), **14(2)** (with Pt. III, reg. 14(9)(10))
- F34** Words in reg. 3 substituted (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), **regs. 1(1)**, 14(10)(a)
- F35** Reg. 3(2)(a) substituted (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), **regs. 1(1)**, 14(10)(b)
- F36** Words in reg. 3(2)(b) substituted (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), **regs. 1(1)**, 14(10)(c)

[^{F37}Adjustment of personal benefit under Parts II and III of the Contributions and Benefits Act where other personal benefit under those Parts or graduated retirement benefit is payable]

4.—^{F38}(1) Subject to paragraphs (2), (3) and (4) and regulation 12, an adjustment shall be made in accordance with paragraph (5) where either—

- (a) two or more personal benefits (whether of the same or a different description) are, or but for this regulation would be, payable under Parts II and III of the Contributions and Benefits Act (which relate to benefits other than industrial injuries benefits)^{F39}, Part 1 of the Welfare Reform Act^{F40}, Part 1 of the Pensions Act 2014^{F41} or under the Jobseekers Act] for any period; or
- (b) graduated retirement benefit is payable under sections 36 and 37 of the National Insurance Act 1965 together with one or more personal benefits (whether of the same or a different description) which are, or but for this regulation would be, payable under Parts II and III of the Contributions and Benefits Act for any period.]

(2) Paragraph (1) shall not require the adjustment of, or by reference to—

- (a) a death grant;
- (b) a maternity grant;
- (c) any other sum paid otherwise than in respect of a period;
- (d) an earnings-related supplement or earnings-related addition to any benefit (except as provided by regulation 5 and in the case of ^{F42}severe disablement allowance] or ^{F43}carer's allowance]);
- (e) an attendance allowance;
- (f) ^{F44}additional pension] or graduated retirement benefit (except as provided by paragraph (4) ^{F45}and (4A));
- (g) ^{F46}disability living allowance].

^{F47}(2A) Paragraph (1) shall not require an adjustment of widow's pension reduced in accordance with section 39(4) of the Contributions and Benefits Act only by reference to long-term incapacity benefit calculated in accordance with section 40(5)(b) of that Act.]

(3) Paragraph (1) shall require an adjustment of age addition only by reference to another age addition.

(4) ^{F48}Except where paragraph (4A) applies,] where there are payable 2 or more personal benefits to which this regulation applies with which ^{F49}additional pension] or graduated retirement benefit is payable as part of the rate of benefit or as an increase of benefit, or, in a case where the person entitled to receive the benefits is over pensionable age and one or more of the benefits includes either additional component or graduated retirement benefit while another of the benefits is payable at the rate referred to in section 14(6) or 15(4) of the Act, then the following provisions shall apply—

- (a) for the purposes of adjustment falling to be made under paragraph (5) that ^{F50}additional pension] or graduated retirement benefit shall be treated as part of the personal benefit with which it is so payable;
- (b) the provisions of sub-paragraph (a) shall apply before any further adjustment under these regulations; and
- (c) for the purpose of any such further adjustment, the beneficiary shall be treated as having a single long-term benefit inclusive of whichever before adjustment under sub-paragraph (a) is the highest of the following amounts—
 - (i) the highest ^{F51}additional pension] payable, or

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- (ii) the highest graduated retirement benefit payable, or
- (iii) the highest total of [^{F52}additional pension] and graduated retirement benefit payable together as part of the rate of and as an increase of any of those personal benefits.

[^{F53}(4A) Where the person is entitled to additional pension, a state pension under Part 1 of the Pensions Act 2014 and either widow's pension or widowed mother's allowance, paragraph (1) shall require the adjustment of additional pension.]

- (5) Where an adjustment falls to be made in accordance with this paragraph and—
 - (a) one of the benefits is a contributory benefit and one is a non-contributory benefit, the non-contributory benefit shall be adjusted by deducting from it the amount of the contributory benefit and only the balance, if any, shall be payable.
 - (b) sub-paragraph (a) above does not apply, if one of the benefits is payable on a weekly basis—
 - (i) where the beneficiary has made application, before the payment is made, to have the benefit payable on a weekly basis adjusted, it shall be adjusted by deducting from it the amount of the other benefit and only the balance of it, if any, shall be payable,
 - (ii) in any other case, the benefit not payable on a weekly basis shall be adjusted by deducting from it the amount of the other benefit and only the balance of it, if any, shall be payable;
 - (c) sub-paragraphs (a) and (b) above do not apply, the amount payable in respect of the benefits in question shall be an amount equal to that which would but for this provision be payable in respect of—
 - (i) one of them, if they would have been payable at the same rate, or
 - (ii) the higher or highest of them, if they would have been payable at different rates,

so however that in a case where more than 2 benefits would be payable then the total amount payable shall not exceed the amount which would be ascertained under sub-paragraph (c).

[^{F54}(6) For the purposes of this regulation—

“additional pension” means a pension payable with a personal benefit under Part II of the Contributions and Benefits Act or an additional rate; and

“additional rate” means an additional amount equal to the rate paid or payable as an additional pension with invalidity benefit immediately before 13th April 1995 which is payable after that date pursuant to regulation 18 of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995.]

Textual Amendments

- F37** Reg. 4 heading substituted (13.1.1993) by [The Social Security \(Overlapping Benefits\) Amendment \(No. 2\) Regulations 1992 \(S.I. 1992/3194\)](#), regs. 1(1), **3(1)**
- F38** Reg. 4(1) substituted (13.1.1993) by [The Social Security \(Overlapping Benefits\) Amendment \(No. 2\) Regulations 1992 \(S.I. 1992/3194\)](#), regs. 1(1), **3(2)**
- F39** Words in reg. 4(1)(a) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **51(3)**
- F40** Words in reg. 4(1)(a) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **4(3)(a)**
- F41** Words in reg. 4(1)(a) inserted (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **22(3)**

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- F42** Words in reg. 4(2)(d) substituted (29.11.1984) by The Social Security (Severe Disablement Allowance) Regulations 1984 (S.I. 1984/1303), regs. 1, 11, **Sch. 2**
- F43** Words in reg. 4 substituted (1.4.2003) by The Social Security Amendment (Carers Allowance) Regulations 2002 (S.I. 2002/2497), reg. 1(b), Sch. 2 paras. 12
- F44** Words in reg. 4(2)(f) substituted (6.4.1987) by Social Security Act 1986 (c. 50), reg. 1, **s. 18(1)**
- F45** Words in reg. 4(2)(f) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **4(3)(b)**
- F46** Words in reg. 4(2)(g) substituted (6.4.1992) by The Disability Living Allowance and Disability Working Allowance (Consequential Provisions) Regulations 1991 (S.I. 1991/2742), regs. 1(1), **5(2)**
- F47** Reg. 4(2A) inserted (13.4.1995) by The Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995 (S.I. 1995/829), regs. 1(1), **14(3)** (with Pt. III)
- F48** Words in reg. 4(4) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **4(3)(c)**
- F49** Words in reg. 4(4) substituted (6.4.1987) by Social Security Act 1986 (c. 50), reg. 1, **s. 18(1)**
- F50** Words in reg. 4(4)(a) substituted (6.4.1987) by Social Security Act 1986 (c. 50), reg. 1, **s. 18(1)**
- F51** Words in reg. 4(4)(c)(i) substituted (6.4.1987) by Social Security Act 1986 (c. 50), reg. 1, **s. 18(1)**
- F52** Words in reg. 4(4)(c)(iii) substituted (6.4.1987) by Social Security Act 1986 (c. 50), reg. 1, **s. 18(1)**
- F53** Reg. 4(4A) inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by The Pensions Act 2014 (Consequential, Supplementary and Incidental Amendments) Order 2015 (S.I. 2015/1985), arts. 1(2)(b), **4(3)(d)**
- F54** Reg. 4(6) inserted (6.1.1997) by The Social Security (Incapacity for Work and Miscellaneous Amendments) Regulations 1996 (S.I. 1996/3207), regs. 1(1), **4**

Special provisions for earnings-related supplements and earnings-related addition to widow's allowance

5.—(1) Where 2 or more earnings-related supplements to any benefits under the Act would apart from this regulation be payable for the same period, for the purposes of regulation 4(1) each such supplement shall be treated as part of the benefit it supplements.

(2) Where an earnings-related addition to widow's allowance would apart from this regulation be payable for the same period as any other benefit under the Act which is calculated whether wholly or in part by reference to the contributions of a husband who has died, that other benefit shall be adjusted by deducting from it the amount of the earnings-related addition, provided that where the widow is also entitled for the same period to graduated retirement benefit or [F55additional pension], or both of them, by virtue of her own contributions and the contributions of the husband who has died, the graduated retirement benefit or [F55additional pension] to be adjusted shall be only that part which is payable by virtue of the contributions of the husband who has died.

(3) Paragraph (1) shall not apply where apart from this regulation a widow's allowance would be payable for the same period as 2 or more other benefits under the Act; in such a case the earnings-related supplement to any of those other benefits shall be adjusted so that only the higher or highest of them is payable.

(4) For the purposes of paragraph (2), [F55additional pension] or graduated retirement benefit, where it is, or but for this regulation would be, payable as part of the rate of or as an increase of another personal benefit, shall be treated as part of the personal benefit with which it is so payable.

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Textual Amendments

F55 Words in reg. 5(2)(4) substituted (6.4.1987) by [Social Security Act 1986 \(c. 50\), reg. 1, s. 18\(1\)](#)

Adjustments of personal benefit under Chapters I and II of Part II of the Act by reference to industrial injuries benefits and benefits not under the Act, and adjustments of industrial injuries benefits

6.—(1) Subject to paragraph (5) and regulation 12, where a personal benefit which is specified in column (1) of Schedule 1 to these regulations (“the column (1) benefit”) is, or but for this regulation would be payable to a person for the same period as a personal benefit which is specified in the corresponding paragraph of column (2) of that Schedule (“the column (2) benefit”) the column (1) benefit shall be adjusted by deducting from it the amount of the column (2) benefit and, subject to any further adjustment under regulation 4, only the balance, if any, shall be payable.

(2) Any reference in paragraph (1), or in Schedule 1 to these regulations, to a benefit, other than a training allowance, does not include an earnings-related supplement or earnings-related addition to it.

[^{F56}(3) Paragraph (1) and Schedule 1 have effect in relation to—

(a) the following allowances and payments—

(i) an attendance allowance;

(ii) the care component of disability living allowance; and

(iii) the daily living component of personal independence payment; ^{F57} ...

[^{F58}(iv) armed forces independence payment up to the value of the daily living component of personal independence payment at the enhanced rate; and]

(b) any benefit by reference to which an allowance or payment under paragraph (a) above is to be adjusted;

as requiring adjustment where both that allowance or payment and the benefit are payable in respect of the same person (whether or not one or both of them are payable to that person).]

(4) Paragraph (1) and Schedule 1 to these regulations shall not require the adjustment of, or by reference to, [^{F59}additional pension] or graduated retirement benefit.

(5) Where—

(a) the column (2) benefit is industrial death benefit or war pension death benefit in either case payable to the beneficiary as the surviving spouse [^{F60}or civil partner],

and

(b) the column (1) benefit is Category A retirement pension ^{F61}... which—

^{F62}(i)

(ii) has a [^{F63}basic pension] by virtue of the beneficiary's own contributions (but not by virtue of those of a former spouse [^{F60}or civil partner]) which consists of either the rate specified in section 6(1)(a) of the Pensions Act or some percentage of that rate prescribed by regulations made under section 33(2) of the Act,

the adjustment under paragraph (1) shall not reduce that Column (1) benefit to less than the appropriate rate in sub-paragraph (b)(ii), together with, if any, increments payable under paragraph 2 of Schedule 1 to the Pensions Act and increase under section 28(7) of the Act.

Textual Amendments

- F56** Reg. 6(3) substituted (8.4.2013) by The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388), reg. 2, **Sch. para. 10(3)**
- F57** Word in reg. 6(3)(a)(iii) omitted (8.4.2013) by virtue of The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 3(3)(a)**
- F58** Reg. 6(3)(a)(iv) inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 3(3)(b)**
- F59** Words in reg. 6(4) substituted (6.4.1987) by Social Security Act 1986 (c. 50), reg. 1, **s. 18(1)**
- F60** Words in reg. 6(5) inserted (5.12.2005) by The Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2877), art. 1, **Sch. 3 para. 9(2)** (with art. 3)
- F61** Words in reg. 6(5)(b) omitted (13.4.1995) by virtue of The Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995 (S.I. 1995/829), regs. 1(1), **14(4)(a)** (with Pt. III, reg. 14(11))
- F62** Reg. 6(5)(b)(i) omitted (13.4.1995) by virtue of The Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995 (S.I. 1995/829), regs. 1(1), **14(4)(b)** (with Pt. III, reg. 14(11))
- F63** Words in reg. 6(5)(ii) substituted (6.4.1987) by Social Security Act 1986 (c. 50), reg. 1, **s. 18(1)**

Adjustment of dependency benefit in respect of a child where other dependency benefit is payable for that child

7.—(1) Subject to regulation 12, where dependency benefit under the Act is payable, or but for this regulation would be payable, to any person in respect of a child and any other dependency benefit specified in paragraph (2) is payable to that or any other person in respect of that child for the same period, an adjustment shall be made in accordance with regulation 4(5) so however that where one of the dependency benefits is death benefit under section 70 by way of an allowance, or is a guardian's allowance under section 38 (the other dependency benefit not being benefit under either the said section 38 or 70) the adjustment shall be made in accordance with paragraph (4) of this regulation.

(2) Subject to paragraph (3), the other dependency benefit referred to in paragraph (1) is any dependency benefit under—

- (a) the Act;
- (b) any Personal Injuries Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme;
- (c) any Pneumoconiosis and Byssinosis Benefit Scheme;
- (d) any scheme, being a benefit by way of training allowance.

(3) Sub-paragraph (b) of paragraph (2) does not include an allowance payable for the purpose of the child's education and for the purposes of that sub-paragraph—

- (a) any personal benefit by way of a pension payable to a child shall be treated as a dependency benefit payable to another person in respect of that child;
- (b) any dependency benefit payable as part of a disablement pension shall be disregarded unless it is payable as an increase of an unemployability supplement.

(4) Where one of the dependency benefits is death benefit under section 70 by way of an allowance or is a guardian's allowance, except in a case to which paragraph (5) applies, the other dependency benefit shall be adjusted by deducting from it the amount of that death benefit or, as the case may be, guardian's allowance, and only the balance, if any, shall be payable.

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(5) Where a death benefit by way of an allowance under section 70 or a guardian's allowance is payable to a person in respect of a child and any other dependency benefit specified in subparagraph (b) or (d) of paragraph (2) is payable to that or any other person in respect of that child for the same period, the death benefit or, as the case may be, the guardian's allowance shall be adjusted by deducting from it the other benefit and only the balance, if any, shall be payable.

Child benefit

[F64]8.—(1) Subject to the following provisions of this regulation, where any benefit, or increase of a benefit, under the Act is payable to a beneficiary, the weekly rate of that benefit or increase shall not be adjusted by reference to child benefit.]

[F65](2) Where child benefit is payable to a beneficiary at the rate for the time being specified in regulation 2(1)(a)(ii) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976 (in this regulation referred to as the “Child Benefit Rates Regulations”) (weekly rate for only, elder or eldest child of a lone parent) and for the same period, in respect of the same child, any benefit or increase in benefit under the Contributions and Benefits Act is or would be payable to a beneficiary, [F66]except where that benefit is guardian’s allowance payable to any person under section 77 of that Act,] the weekly rate of that benefit or increase thereof shall be reduced by—

[F67](a)

(b) [F68]... an amount equal to the amount, less [F69]£3.65], by which the rate specified in regulation 2(1)(a)(ii) of the Child Benefit Rates Regulations exceeds the rate specified in regulation 2(1)(b) of those Regulations.

(3) Subject to paragraph (6) of this regulation, where child benefit is payable to a beneficiary at the rate for the time being specified in regulation 2(1)(a)(i) of the Child Benefit Rates Regulations (weekly rate for only, elder or eldest child) and for the same period, in respect of the same child, any benefit or increase in benefit under the Contributions and Benefits Act is or would be payable to a beneficiary, [F70]except where that benefit is guardian’s allowance payable to any person under section 77 of that Act,] the weekly rate of that benefit or increase thereof shall be reduced by an amount equal to the amount, less [F71]£3.65], by which the rate specified in regulation 2(1)(a)(i) of the Child Benefit Rates Regulations exceeds the rate specified in regulation 2(1)(b) of those Regulations.]

[F72](4)

[F72](5)

[F73](6) Where the weekly rate of any benefit or increase of benefit under the Act or the weekly rate of child benefit or both are increased in consequence of an order under section 63(2) of the Social Security Act 1986 and as a result the amount by which the benefit being adjusted under paragraph (3) changes, the weekly rate of benefit or increase shall not be reduced by the increased amount until the date on which the change in that benefit or increase of benefit has effect.]

[F74](7)

Textual Amendments

- F64** Reg. 8 substituted (with effect in accordance with reg. 1(3) of the amending S.I.) by [The Social Security \(Overlapping Benefits\) Amendment Regulations 1991 \(S.I. 1991/547\)](#), regs. 1(2), 2
- F65** Reg. 8(2)(3) substituted (7.4.1997) by [The Child Benefit, Child Support and Social Security \(Miscellaneous Amendments\) Regulations 1996 \(S.I. 1996/1803\)](#), regs. 1(b), 47(a)
- F66** Words in reg. 8(2) inserted (7.4.2003) by [The Social Security \(Overlapping Benefits\) Amendment Regulations 2003 \(S.I. 2003/136\)](#), regs. 1, 2(2)(a)

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- F67** Reg. 8(2)(a) omitted (7.4.2003) by virtue of The Social Security (Overlapping Benefits) Amendment Regulations 2003 (S.I. 2003/136), regs. 1, **2(2)(b)**
- F68** Words in reg. 8(2)(b) omitted (7.4.2003) by virtue of The Social Security (Overlapping Benefits) Amendment Regulations 2003 (S.I. 2003/136), regs. 1, **2(2)(c)**
- F69** Word in reg. 8(2)(b) substituted (12.4.2004) by The Social Security (Miscellaneous Amendments) Regulations 2004 (S.I. 2004/565), regs. 1(2)(d), **8(2)**
- F70** Words in reg. 8(3) inserted (7.4.2003) by The Social Security (Overlapping Benefits) Amendment Regulations 2003 (S.I. 2003/136), regs. 1, **2(3)**
- F71** Word in reg. 8(3) substituted (12.4.2004) by The Social Security (Miscellaneous Amendments) Regulations 2004 (S.I. 2004/565), regs. 1(2)(d), **8(2)**
- F72** Reg. 8(4)(5) omitted (7.4.1997) by virtue of The Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1803), regs. 1(b), **47(b)**
- F73** Reg. 8(6) added (6.4.1992) by The Social Security (Overlapping Benefits) Amendment Regulations 1992 (S.I. 1992/589), regs. 1, **2(c)**
- F74** Reg. 8(7) omitted (7.4.1997) by virtue of The Child Benefit, Child Support and Social Security (Miscellaneous Amendments) Regulations 1996 (S.I. 1996/1803), regs. 1(b), **47(b)**

Adjustment of dependency benefit in respect of an adult dependant where other dependency benefit is payable

9.—(1) Subject to paragraph (3) and regulation 12, where for any period any dependency benefit under the Act is, or but for this regulation would be, payable to any person in respect of an adult dependant and any other dependency benefit specified in paragraph (2) is payable for that period to—

- (a) that person in respect of that or any other adult dependant; or
- (b) any other person in respect of that dependant,

an adjustment shall be made in accordance with regulation 4(5).

(2) The other dependency benefit referred to in paragraph (1) is any dependency benefit under—

- (a) the Act;
- (b) any Personal Injuries Scheme, Service Pensions Instrument or 1914-1918 War Injuries Scheme;
- (c) any Pneumoconiosis and Byssinosis Benefit Scheme;
- (d) any scheme being a benefit by way of training allowance.

(3) Paragraph (1) shall not require an adjustment to be made where one of the dependency benefits in question is an increase of benefit under section 44(3)(c), 46(2) or 66(1)(d) in respect of a person who is employed by the beneficiary but is not residing with him and the other such benefit is payable to a person other than the beneficiary ^{F75}or to a person entitled to an increase of incapacity benefit under regulation 9(1)(d) of the Social Security (Incapacity Benefit—Increases for Dependants) Regulations 1994 who satisfies the requirements of paragraph (3)(a) of that regulation].

(4) For the purposes of paragraph (2)(b) any dependency benefit which is payable with a disablement pension shall be disregarded unless it is payable as an increase of an unemployment supplement.

Textual Amendments

- F75** Words in reg. 9(3) added (13.4.1995) by The Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995 (S.I. 1995/829), regs. 1(1), **14(5)** (with Pt. III)

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Adjustment of dependency benefit where certain personal benefit is payable

10.—(1) Subject to the following provisions of this regulation, where a dependency benefit under the Act is payable for the same period as one or more of the following personal benefits is, or but for the provisions of these regulations would be, payable to the dependant—

- (a) a personal benefit under Chapter I or II of Part II of the Act (other than a benefit specified in regulation 4(2)(a)(b)(c)(e) or (g);
- (b) an unemployment supplement;
- ^{F76}(c)
- (d) industrial death benefit;
- (e) war pension death benefit;
- (f) a training allowance^[F77;]
- ^[F78](g) a temporary allowance under the provisions of section 1 of the Job Release Act 1977;]
- ^[F79](h) a weekly allowance pursuant to arrangements made by ^[F80]the Secretary of State] under section 2 of the Employment and Training Act 1973^[F81], or by Scottish Enterprise or Highlands and Islands Enterprise under section 2 of the Enterprise and New Towns (Scotland) Act 1990,] for the purpose of the Enterprise Allowance Scheme,]
- ^[F82](i) graduated retirement benefit,]
- ^[F83](j) a contribution-based jobseeker’s allowance,]
- ^[F84](k) a contributory employment and support allowance,]

the dependency benefit shall be adjusted in accordance with paragraph (2).

(2) Where the weekly rate of the personal benefit (or, if more than one, the aggregate weekly rate payable after any adjustment made by virtue of regulations 4(1) or 6(1)—

- (a) is equal to or exceeds the weekly rate of the dependency benefit, the dependency benefit shall not be paid;
- (b) in any other case, the weekly rate of the dependency benefit payable shall be adjusted, if necessary, so that it does not exceed the difference between the weekly rate of the personal benefit and that of the unadjusted dependency benefit.

(3) Paragraph (1) does not apply to an increase of benefit under section 44(3)(c), 46(2) or 66(1) (d) in respect of a person who is employed by, but is not residing with, the beneficiary ^[F85]or to a person entitled to an increase of incapacity benefit under regulation 9(1)(d) of the Social Security (Incapacity Benefits—Increases for Dependants) Regulations 1994 who satisfies the requirements of paragraph (3)(a) of that regulation].

(4) Where the personal benefit to which paragraph (1) applies is sickness benefit ^[F86]but not incapacity benefit] payable to a married woman which falls to be adjusted by virtue of regulations under section 85(1)(b) (hospital in-patients) and the dependency benefit would be payable to her husband, the rate of sickness benefit to be taken into account for the purposes of paragraph (1) shall be the rate after it has been so adjusted.

Textual Amendments

- F76** Reg. 10(1)(c) revoked (6.4.1983) by [The Social Security \(Abolition of Injury Benefit\) \(Consequential\) Regulations 1983 \(S.I. 1983/186\)](#), regs. 1(1), **10(2)**
- F77** Reg. 10(1)(f) semi-colon substituted (5.1.1981) by [The Social Security \(Overlapping Benefits\) Amendment Regulations 1980 \(S.I. 1980/1927\)](#), regs. 1, **3**

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- F78** Reg. 10(1)(g) inserted (5.1.1981) by The Social Security (Overlapping Benefits) Amendment Regulations 1980 (S.I. 1980/1927), regs. 1, **3**
- F79** Reg. 10(1)(h) inserted (14.9.1982) by The Social Security (Overlapping Benefits) Amendment Regulations 1982 (S.I. 1982/1173), regs. 1, **2**
- F80** Words in reg. 10(1)(h) substituted (16.11.1989) by Employment Act 1989 (1989 c.38), **Sch. 5** para's 1, 4
- F81** Words in reg. 10(1)(h) added (1.4.1991) by The Enterprise (Scotland) Consequential Amendments Order 1991 (S.I. 1991/387), arts. 1, **5(b)**
- F82** Reg. 10(1)(i) added (13.1.1993) by The Social Security (Overlapping Benefits) Amendment (No. 2) Regulations 1992 (S.I. 1992/3194), regs. 1(1), **4**
- F83** Reg. 10(1)(j) added (7.10.1996) by The Social Security and Child Support (Jobseeker's Allowance) (Consequential Amendments) Regulations 1996 (S.I. 1996/1345), regs. 1, **22(4)**
- F84** Reg. 10(1)(k) added (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **51(4)**
- F85** Words in reg. 10(3) added (13.4.1995) by The Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995 (S.I. 1995/829), regs. 1(1), **14(6)(a)** (with Pt. III)
- F86** Words in reg. 10(4) inserted (13.4.1995) by The Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995 (S.I. 1995/829), regs. 1(1), **14(6)(b)** (with Pt. III)

Dependency benefit under the Act not to be payable if a training allowance is payable

11. Dependency benefit under the Act shall not be payable to any person for any period in respect of which any personal benefit by way of training allowance is payable to him so however that this regulation shall not apply where such personal benefit has itself been adjusted by reference to any benefit under the Act.

Special provision relating to the adjustment of non-contributory invalidity pension and invalid care allowance

12. In any case where personal benefit or dependency benefit by way of a [^{F87}severe disablement allowance] or a [^{F88}carer's allowance] would, in accordance with the provisions of regulations 4, 6, 7 or 9, fall to be adjusted by reference to any other personal benefit (other than [^{F89}additional pension] or graduated retirement benefit) or dependency benefit, it shall be reduced by the amount which is, or but for these regulations would be, payable by way of that other benefit both as personal benefit and as dependency benefit, so however that the amount payable by way of a [^{F87}severe disablement allowance] or a [^{F88}carer's allowance] and that other benefit shall in no case be less than the sum of the amounts which, but for any adjustment, would have been payable by way of a [^{F87}severe disablement allowance] or [^{F88a}][^{F88}carer's allowance] as personal benefit and dependency benefit.

Textual Amendments

- F87** Words in reg. 12 substituted (29.11.1984) by The Social Security (Severe Disablement Allowance) Regulations 1984 (S.I. 1984/1303), regs. 1, 11, **Sch. 2**
- F88** Words in reg. 12 substituted (1.4.2003) by The Social Security Amendment (Carers Allowance) Regulations 2002 (S.I. 2002/2497), reg. 1(b), Sch. 2 paras. 12
- F89** Words in reg. 12 substituted (6.4.1987) by Social Security Act 1986 (c. 50), reg. 1, **s. 18(1)**

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Increases in respect of more than one dependant to be treated as separate dependency benefits

13. For the purposes of these regulations, where dependency benefit by way of an increase is payable in respect of more than one person (whether a child or adult dependant), each such increase shall be treated as a separate dependency benefit.

Provisions for adjusting benefit for part of a week

14.—^{F90}(1) Where an adjustment falls to be made under these regulations for part of a week, benefit (whether under the Contributions and Benefits Act or otherwise) shall be deemed to be payable at a rate equal to one-seventh of the appropriate weekly rate for each day of the week in respect of any such benefit.]

^{F91}(2)

(3) In paragraph (1) “appropriate weekly rate” means the weekly rate at which the benefit in question would be payable but for these regulations.

Textual Amendments

F90 Reg. 14(1) substituted (1.10.2006) by [The Statutory Maternity Pay, Social Security \(Maternity Allowance\) and Social Security \(Overlapping Benefits\) \(Amendment\) Regulations 2006 \(S.I. 2006/2379\)](#), regs. 1(2), **2(2)** (with reg. 1(2))

F91 Reg. 14(2) omitted (7.10.1996) by virtue of [The Social Security and Child Support \(Jobseeker’s Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **22(5)(c)**

Priority between persons entitled to increase of benefit

15.—(1) Subject to paragraphs (5) and (6), the following provisions shall apply for the purpose of determining priority as between two persons entitled to an increase of benefit under the Act in respect of a third person.

(2) Where, but for the provisions of this paragraph, a man and his wife would both be entitled to an increase of retirement pension (being an increase of Category A or Category C retirement pension in his case and a Category B or Category C retirement pension in hers) in respect of the same child or children, that man shall, and his wife shall not, be entitled to the increase; and he shall be treated as so entitled for the purposes of this paragraph during any period for which he would be entitled but for the operation of any provision of the Act, with the exception of section 82(5)(b) (disqualification while undergoing imprisonment or detention), disqualifying him for the receipt of benefit.

(3) Subject to paragraphs (2), (5) and (6), where, but for the provisions of this paragraph, more than one person would be entitled to an increase of benefit in respect of the same child for the same period—

- (a) in a case where one of those persons has been awarded child benefit in respect of the child for that period, that one of them shall be entitled to the said increase;
- (b) in the case where sub-paragraph (a) does not apply but where one of those persons is entitled otherwise than by virtue of regulations made under Schedule 20 to the Act to child benefit in respect of the child for that period, that one of them shall be entitled to the said increase;
- (c) in a case where neither sub-paragraph (a) nor sub-paragraph (b) applies but where the child is living with one and no other of those persons for that period, that one of them with whom the child is living shall be entitled to the said increase;

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(d) in a case where none of the preceding sub-paragraphs applies but where one of those persons is a parent of the child, that one of them shall be entitled to the said increase.

(4) Subject to paragraphs (5) and (6), where, but for the provisions of this paragraph, more than one person would be entitled to an increase of benefit in respect of an adult dependant for the same period—

(a) in a case where one of those persons is the spouse [^{F92}or civil partner] of the adult dependant that one of them shall be entitled to the said increase;

(b) in a case where sub-paragraph (a) above does not apply that one of them with whom the adult dependant is residing shall be entitled to the said increase.

(5) Nothing in paragraphs (3) and (4) shall prevent a written notice signed by one or, as the case may be, a majority of the said persons designating another of them as the person to be entitled to the increase, being sent to the Secretary of State; so however that such notice shall not be effective to confer entitlement to an increase in respect of any period for which such increase has already been paid to someone other than the person so designated.

(6) Nothing in paragraphs (3) and (4) shall prevent a person who, in accordance with any of those paragraphs, is not entitled to an increase from being paid an amount equivalent to the amount, if any, by which the increase which would otherwise have been paid to such person exceeds the increase payable to the person entitled by virtue of any of the said paragraphs.

Textual Amendments

F92 Words in [reg. 15\(4\)\(a\)](#) inserted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 3 para. 9(3)** (with art. 3)

Persons to be treated as entitled to benefit for certain purposes

16. Any person who would be entitled to any benefit under the Act^{F93}, Part 1 of the Welfare Reform Act^{F94}, under Part 4 of the 2012 Act^{F95} or under the Jobseekers Act, or entitled to armed forces independence payment] but for these regulations shall be treated as if he were entitled thereto for the purpose of any rights or obligations under the Act and the regulations made under it [^{F96}Part 1 of the Welfare Reform Act and regulations made under it], [^{F97}Part 4 of the 2012 Act and regulations made under it]^{F98} or under the Jobseekers Act and regulations made under it, or entitled to armed forces independence payment], (whether of himself or some other person) which depend on his being so entitled, other than for the purposes of the right to payment of that benefit.

Textual Amendments

F93 Words in [reg. 16](#) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **51(5)(a)**

F94 Words in [reg. 16](#) inserted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 10(4)(a)**

F95 Words in [reg. 16](#) substituted (8.4.2013) by [The Armed Forces and Reserve Forces Compensation Scheme \(Consequential Provisions: Subordinate Legislation\) Order 2013 \(S.I. 2013/591\)](#), art. 2(2), **Sch. para. 3(4)(a)**

F96 Words in [reg. 16](#) inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **51(5)(b)**

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- F97** Words in reg. 16 inserted (8.4.2013) by The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388), reg. 2, **Sch. para. 10(4)(b)**
- F98** Words in reg. 16 substituted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 3(4)(b)**

Prevention of double adjustments

17. No adjustment shall be made under regulations 6 to 10 to any benefit under the Act^{F99}, the Jobseekers Act^{F100}, Part 1 of the Welfare Reform Act or Part 4 of the 2012 Act]] by reference to any other benefit, whether under the Act^{F99}, the Jobseekers Act^{F100}, Part 1 of the Welfare Reform Act or Part 4 of the 2012 Act]] or otherwise, where the latter benefit has itself been adjusted by reference to the former benefit.

Textual Amendments

- F99** Words in reg. 17 substituted (27.10.2008) by The Employment and Support Allowance (Consequential Provisions) (No. 2) Regulations 2008 (S.I. 2008/1554), regs. 1(2)(b), **51(6)**
- F100** Words in reg. 17 substituted (8.4.2013) by The Personal Independence Payment (Supplementary Provisions and Consequential Amendments) Regulations 2013 (S.I. 2013/388), reg. 2, **Sch. para. 10(5)**

Revocations

18. The regulations specified in column (1) of Schedule 2 to these regulations are hereby revoked to the extent stated in Column (3) of that Schedule.

Patrick Jenkin
Secretary of State for Social Services

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SCHEDULE 1

Regulation 6

PERSONAL BENEFITS WHICH ARE REQUIRED TO BE ADJUSTED BY REFERENCE
TO BENEFITS NOT UNDER CHAPTERS I AND II OF PART II OF THE ACT

| <i>Column (1)</i> <i>[^{F101}Personal benefit]</i> | <i>Column (2)</i> <i>Other personal benefit by reference to which the benefit in column (1) is to be adjusted</i> |
|---|---|
| 1. [^{F102} A contribution-based jobseeker's allowance] or [^{F103} short-term incapacity benefit] | 1. ^{F104} ...unemployability supplement and training allowance |
| 2. Maternity allowance | 2. ^{F105} ...training allowance |
| 3. Widow's benefit[^{F106} , bereavement allowance, widowed parent's allowance] and benefit by virtue of section 39(4) corresponding to widowed mother's allowance or widow's pension | 3. ^{F107} ...unemployability supplement, industrial death benefit or war pension death benefit in either case payable to a woman as widow of the deceased and (except where the benefit in column (1) is widow's allowance) training allowance |
| 4. Retirement pension of any category (except any age addition) or [^{F108} incapacity benefit], [^{F109} severe disablement allowance[^{F110} , contributory employment and support allowance]] or [^{F111} carer's allowance] | 4. ^{F107} ...unemployability supplement, industrial death benefit or war pension death benefit in either case payable to that person as the surviving spouse, [^{F112} or civil partner] and training allowance |
| 4A. [^{F113} State pension under Part 1 of the Pensions Act 2014] | 4A. [^{F114} Unemployability supplement and training allowance] |
| 5. [^{F115} Attendance allowance, the care component of disability living allowance, the daily living component of personal independence payment or armed forces independence payment up to the value of the daily living component of personal independence payment at the enhanced rate] | 5. Any benefit based on need for attendance under section 61 or under any Pneumoconiosis and Byssinosis Benefit Scheme, Personal Injuries Scheme, Service Pensions Instrument or 1914–1918 War Injuries Scheme |
| [^{F116} 5A Personal independence payment, attendance allowance or disability living allowance] | [^{F117} 5A Armed forces independence payment] |
| 6. Invalidity allowance [^{F118} or an increase in the rate of incapacity benefit in accordance with regulation 10(1) of the Social Security (Incapacity Benefit) Regulations 1994] | 6. An increase under section 59(1) of an unemployability supplement and an additional allowance payable only to a beneficiary who is entitled to an unemployability supplement under any Personal Injuries Scheme, Service |

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| <i>Column (1)</i> [^{F101} Personal benefit] | <i>Column (2)</i> <i>Other personal benefit by reference to which the benefit in column (1) is to be adjusted</i> Pensions Instrument or 1914–1918 War Injuries Scheme |
|---|---|
| 7. F119 | 7. F119 |
| ... | ... |
| 8. Unemployability supplement | 8. Any other unemployability supplement |
| 9. Increase of disablement pension during hospital treatment | 9. Treatment allowance |

Textual Amendments

- F101** Words in Sch. 1 substituted (8.4.2013) by [The Personal Independence Payment \(Supplementary Provisions and Consequential Amendments\) Regulations 2013 \(S.I. 2013/388\)](#), reg. 2, **Sch. para. 10(6)(a)**
- F102** Words in Sch. 1 para. 1 substituted (7.10.1996) by [The Social Security and Child Support \(Jobseeker's Allowance\) \(Consequential Amendments\) Regulations 1996 \(S.I. 1996/1345\)](#), regs. 1, **22(8)**
- F103** Words in Sch. 1 substituted (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), regs. 1(1), **14(8)(a)** (with Pt. III)
- F104** Words in Sch. 1 para. 1 omitted (6.4.1983) by virtue of [The Social Security \(Abolition of Injury Benefit\) \(Consequential\) Regulations 1983 \(S.I. 1983/186\)](#), regs. 1(1), **10(3)(a)**
- F105** Words in Sch. 1 para. 2 omitted (6.4.1983) by virtue of [The Social Security \(Abolition of Injury Benefit\) \(Consequential\) Regulations 1983 \(S.I. 1983/186\)](#), regs. 1(1), **10(3)(b)**
- F106** Words in Sch. 1 inserted (9.4.2001) by [The Social Security \(Benefits for Widows and Widowers\) \(Consequential Amendments\) Regulations 2000 \(S.I. 2000/1483\)](#), regs. 1, **6(3)**
- F107** Words in Sch. 1 paras. 3 4 omitted (6.4.1983) by virtue of [The Social Security \(Abolition of Injury Benefit\) \(Consequential\) Regulations 1983 \(S.I. 1983/186\)](#), regs. 1(1), **10(3)(a)**
- F108** Words in Sch. 1 substituted (13.4.1995) by [The Social Security \(Incapacity Benefit\) \(Consequential and Transitional Amendments and Savings\) Regulations 1995 \(S.I. 1995/829\)](#), regs. 1(1), **14(8)(b)** (with Pt. III)
- F109** Words in Sch. 1 para. 4 substituted (29.11.1984) by [The Social Security \(Severe Disablement Allowance\) Regulations 1984 \(S.I. 1984/1303\)](#), regs. 1, 11, **Sch. 2**
- F110** Words in Sch. 1 inserted (27.10.2008) by [The Employment and Support Allowance \(Consequential Provisions\) \(No. 2\) Regulations 2008 \(S.I. 2008/1554\)](#), regs. 1(2)(b), **51(7)**
- F111** Words in Sch. 1 substituted (1.4.2003) by [The Social Security Amendment \(Carers Allowance\) Regulations 2002 \(S.I. 2002/2497\)](#), reg. 1(b), Sch. 2 paras. 12
- F112** Words in Sch. 1 para. 4 inserted (5.12.2005) by [The Civil Partnership \(Pensions, Social Security and Child Support\) \(Consequential, etc. Provisions\) Order 2005 \(S.I. 2005/2877\)](#), art. 1, **Sch. 3 para. 9(4)** (with art. 3)
- F113** Words in Sch. 1 inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **4(4)(a)**
- F114** Words in Sch. 1 inserted (coming into force in accordance with art. 1(2)(b) of the amending S.I.) by [The Pensions Act 2014 \(Consequential, Supplementary and Incidental Amendments\) Order 2015 \(S.I. 2015/1985\)](#), arts. 1(2)(b), **4(4)(b)**

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- F115** Words in Sch. 1 substituted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 3(5)(a)**
- F116** Words in Sch. 1 inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 3(5)(b)**
- F117** Words in Sch. 1 inserted (8.4.2013) by The Armed Forces and Reserve Forces Compensation Scheme (Consequential Provisions: Subordinate Legislation) Order 2013 (S.I. 2013/591), art. 2(2), **Sch. para. 3(5)(c)**
- F118** Words in Sch. 1 added (13.4.1995) by The Social Security (Incapacity Benefit) (Consequential and Transitional Amendments and Savings) Regulations 1995 (S.I. 1995/829), regs. 1(1), **14(8)(c)** (with Pt. III)
- F119** Sch. 1 para. 7 omitted (6.4.1983) by virtue of The Social Security (Abolition of Injury Benefit) (Consequential) Regulations 1983 (S.I. 1983/186), regs. 1(1), **10(3)(c)**

SCHEDULE 2

Regulation 18

REGULATIONS REVOKED

| <i>Column (1)</i> <i>Citation</i> | <i>Column (2)</i> <i>Statutory Instrument</i> | <i>Column (3)</i> <i>Extent of revocation</i> |
|---|--|--|
| The Social Security (Overlapping Benefits) Regulations 1975 | S.I. 1975/554 | The whole of the regulations |
| The Social Security (Non-Contributory Invalidity Pension) Regulations 1975 | S.I. 1975/1058 | Regulation 18 |
| The Mobility Allowance Regulations 1975 | S.I. 1975/1573 | Regulation 11 |
| The Social Security (Invalid Care Allowance) Regulations 1976 | S.I. 1976/409 | Regulation 15 |
| The Social Security (Miscellaneous Amendments) Regulations 1976 | S.I. 1976/1736 | Regulation 3 |
| The Social Security (Child Benefit Consequential) Regulations 1977 | S.I. 1977/342 | Regulation 10 |
| The Social Security (Miscellaneous Amendments) Regulations 1978 | S.I. 1978/433 | Regulation 3 |
| The Social Security (Overlapping Benefits) Amendment Regulations 1978 | S.I. 1978/524 | The whole of the regulations |
| The Social Security (Overlapping Benefits) Amendment (No. 2) Regulations 1978 | S.I. 1978/1511 | The whole of the regulations |

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| <i>Column (1) Citation</i> | <i>Column (2) Statutory Instrument</i> | <i>Column (3) Extent of revocation</i> |
|--|--|---|
| The Social Security (Overlapping Benefits and Miscellaneous Amendments) Regulations 1979 | S.I. 1979/359 | Regulations 2 to 7, Regulation 9 and the Schedule |

EXPLANATORY NOTE

The Regulations contain provisions relating to adjustment of benefits under the Social Security Act 1975 by reference to other benefits payable for the same period.

The principal matters dealt with are adjustment of personal benefit under Chapters I, II and IV of Part II of the Act (regulations 4 and 6), earnings-related supplement (regulation 5) and dependency benefit (regulations 7 to 11). The regulations also contain miscellaneous provisions incidental to those matters.

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