
 STATUTORY INSTRUMENTS

1983 No. 1588

SOCIAL SECURITY

**The Social Security Benefits Up-rating
Regulations 1983**

<i>Made</i>	- - - -	26th October 1983
<i>Laid before Parliament</i>		31st October 1983
<i>Coming into Operation</i>		21st November 1983

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 131 of, and paragraph 2(1) of Schedule 14 to, the Social Security Act 1975(a) and of all other powers enabling him in that behalf, hereby makes the following regulations.

This instrument contains only provisions in consequence of an Order(b) under sections 124 and 126A of the said Act of 1975 and accordingly, by virtue of paragraph 8 of Schedule 16 to that Act and paragraph 12(2) of Schedule 3 to the Social Security Act 1980(c), the Secretary of State has not referred proposals to make the regulations contained in it to the Industrial Injuries Advisory Council or the Social Security Advisory Committee.

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security Benefits Up-rating Regulations 1983 and shall come into operation on 21st November 1983.

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

- “the Act” means the Social Security Act 1975;
- “the Pensions Act” means the Social Security Pensions Act 1975(d);
- “the up-rating order” means the Social Security Benefits Up-rating Order 1983(e);

and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

(a) 1975 c. 14.

(b) S.I. 1983/1244.

(c) 1980 c. 30. Paragraph 8 of Schedule 16 to the Act of 1975 and paragraph 12(2) of Schedule 3 to the Act of 1980 were amended by section 42(1) and (2) of the Social Security and Housing Benefits Act 1982 (c. 24).

(d) 1975 c. 60.

(e) S.I. 1983/1244.

Conditions relating to payment of additional benefit under awards made before the appointed or prescribed day

2.—(1) This regulation applies to a case where—

(a) either—

(i) an award of any benefit under Chapters I to III of Part II of the Act has been made before the day appointed or prescribed for the payment of the benefit in question at a higher rate provided in or by virtue of the up-rating order, or

(ii) an award of any benefit under Part II of the Act has been made before the day appointed or prescribed for the payment of the benefit in question at a lower rate provided in or by virtue of the up-rating order;

(b) the period to which the award relates has not ended before that day; and

(c) the award does not, in accordance with the provisions of paragraph 2(2) of Schedule 14 to the Act, provide for the payment of the benefit at the higher or lower rate (as the case may be) as from that day.

(2) In a case to which this regulation applies, paragraphs 1 and 2 of Schedule 14 to the Act shall have effect subject to the condition that if a question arises as to either—

(a) the weekly rate at which the benefit is payable by virtue of the up-rating order; or

(b) whether the conditions for the receipt of the benefit at the altered rate are satisfied,

the benefit shall, until the question has been determined in accordance with the provisions of the Act, be or continue to be payable at the weekly rate specified in paragraph (3).

(3) The weekly rate referred to in paragraph (2) is the weekly rate specified in the award or the weekly rate at which the benefit would have been paid if the question had not arisen, whichever is the lower.

Persons not ordinarily resident in Great Britain

3. Regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975^(a) (application of disqualification in respect of up-rating of benefit) shall apply to any additional benefit payable by virtue of the up-rating order.

^(a) S.I. 1975/563; the relevant amending instruments are S.I. 1977/342, 1979/1432.

Transitory provision

4.—(1) This regulation applies in a case where—

- (a) a person is entitled to receive any of the benefits specified in paragraph (2) for both the day on which, in his case, an increase of that benefit takes effect under the up-rating order or would so take effect but for regulation 3 above (“the later day”) and the day (not counting Sunday as a day where the benefit in question is not payable for Sundays) immediately before the later day (“the earlier day”);
- (b) on both days either or both of the following conditions is or are fulfilled, namely—
 - (i) he is entitled to receive with that benefit an increase or increases for one or more child dependants, with or without an increase for an adult dependant, and
 - (ii) he, or his spouse if they are living together, is entitled to receive an allowance or allowances under section 70 of the Act (industrial death benefit);
- (c) the aggregate of—
 - (i) the weekly rate of that benefit, as applicable in the case of that person, including any increases for child and adult dependants which he is entitled to receive, and
 - (ii) where the condition in sub-paragraph (b)(ii) of this paragraph is fulfilled, the weekly rate of that allowance or the total weekly rate of those allowances,reduced or adjusted as appropriate under any provision of the Act or regulations made thereunder, would, apart from this regulation but because of the up-rating order, be less for the later day than for the earlier day.

(2) The benefits referred to in paragraph (1) are—

- (a) unemployment benefit;
- (b) sickness benefit;
- (c) invalidity pension;
- (d) maternity allowance;
- (e) widow’s allowance;
- (f) widowed mother’s allowance;
- (g) Category A retirement pension;
- (h) Category B retirement pension;
- (i) Category C retirement pension;
- (j) non-contributory invalidity pension;
- (k) invalid care allowance;
- (l) disablement pension; and
- (m) widow’s pension under sections 67 and 68 of the Act.

- (3) For the purposes of paragraphs (1) and (4), the weekly rate—
- (a) of a Category A or Category B retirement pension or a widowed mother's allowance is its weekly rate before the reduction required by section 29(1) of the Pensions Act is made;
 - (b) of a Category A or Category B retirement pension includes any increase to which the person in question is entitled under section 28(7) of the Act, and any increments to which he is entitled under Schedule 1 to the Pensions Act;
 - (c) of a Category A, Category B or Category C retirement pension shall be taken to include any graduated retirement benefit to which that person is entitled under sections 36 and 37 of the National Insurance Act 1965(a); and
 - (d) of an invalidity pension shall be taken to include any invalidity allowance to which the person in question is entitled under section 16 of the Act.
- (4) In a case to which this regulation applies—
- (a) the person in question shall continue to be entitled to receive the benefit in question, including the increases in question; and
 - (b) where the condition in paragraph (1)(b)(ii) is fulfilled, he or his spouse, as the case may be, shall continue to be entitled to receive the allowance or allowances in question,

at the same rate as for the earlier day for so long as he is entitled to receive the same benefit (or, where the condition in paragraph (1)(b)(ii) is fulfilled, he is entitled to receive the same benefit and he or his spouse is entitled to receive the same allowance or allowances) for a continuous period without any change in the number of adult and child dependants for whom he is entitled to receive increases (or, as the case may be, he is entitled to receive increases and he or his spouse is entitled to receive an allowance or allowances) and without any further adjustment falling to be made to that rate as a result of the operation of any provision of the Social Security (Hospital In-Patients) Regulations 1975(b) or of the Social Security (Overlapping Benefits) Regulations 1979(c).

Revocations

5. The Social Security Benefits Up-rating Regulations 1982(d) are hereby revoked.

(a) 1965 c. 51. Sections 36 and 37 were repealed by the Social Security Act 1973 (c. 38) but are continued in force by regulation 3 of the Social Security (Graduated Retirement Benefit)(No. 2) Regulations 1978 (S.I. 1978/393) in the modified form set out in the Schedule to those regulations as amended by Article 6 of the Social Security Benefits Up-rating Order 1983 (S.I. 1983/1244).

(b) S.I. 1975/555, amended by S.I. 1975/1058, 1977/342, 956, 1653, 1979/223.

(c) S.I. 1979/597, amended by S.I. 1980/1927, 1982/1173.

(d) S.I. 1982/1495.

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

Rhodes Boyson,
Minister of State,
Department of Health and Social Security.

26th October 1983.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations are made in consequence of the Social Security Benefits Up-rating Order 1983. Regulation 2 provides that in certain cases where a question has arisen about the effect of the Up-rating Order on a benefit already in payment the altered rates will not apply until the question is determined by an adjudicating authority. Regulation 3 applies the provisions of regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975 so as to restrict the application of the increases specified in the Order in cases where the beneficiary lives abroad. Regulation 4 provides that where the effect of the Order would otherwise be to reduce the total amount of any of a number of specified benefits (including increases for children or payments of industrial death benefit comparable to such increases) the higher rate will continue in payment transitionally until the beneficiary ceases to be entitled or there is another change affecting the rate payable.

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