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STATUTORY INSTRUMENTS

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**1994 No. 268**

**SOCIAL SECURITY**

**The Social Security Benefit (Persons  
Abroad) Amendment Regulations 1994**

<i>Made</i>	- - - -	<i>8th February 1994</i>
<i>Laid before Parliament</i>		<i>15th February 1994</i>
<i>Coming into force</i>	- -	<i>8th March 1994</i>

The Secretary of State for Social Security, in exercise of powers conferred by sections 113(1)(a) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992<sup>(1)</sup>, and of all other powers enabling him in that behalf, and after reference to the Social Security Advisory Committee<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 Regulations 1994 and shall come into force on 8th March 1994.

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

**Amendment of the principal Regulations**

2.—(1) Regulation 2 of the principal Regulations<sup>(4)</sup> (modification of the Act in relation to sickness benefit, invalidity benefit, severe disablement allowance, unemployability supplement and maternity allowance) shall be amended in accordance with the following provisions of this regulation and in this regulation a reference to a numbered paragraph is a reference to the paragraph bearing that number in regulation 2 of the principal Regulations.

(2) In paragraph (1)—

(a) at the beginning there shall be inserted the words “Except as provided by paragraph (1A) or (1B) below,”;

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(1) 1992 c. 4.

(2) See section 172(1) of the Social Security Administration Act 1992 (c. 5).

(3) S.I.1975/563.

(4) Regulation 2 has been amended. The relevant amending instruments are S.I.1977/1679, 1983/186, 1984/1303, 1986/1545 and 1990/40.

- (b) for the words from “sickness benefit” to “maternity allowance” there shall be substituted the words “any benefit in respect of incapacity”;
  - (c) after the words “any day” there shall be inserted the words “falling within the first twenty-six weeks beginning with the day following the day on which he left Great Britain”;
  - (d) in sub-paragraph (a) for the words “, (c) and (d)” there shall be substituted the words “and (c)”;
  - (e) sub-paragraph (d) and the word “, or” immediately preceding it shall be omitted.
- (3) After paragraph (1) there shall be inserted the following paragraphs—
- “(1A) Subject to paragraph (1B), a person who is in receipt of attendance allowance or disability living allowance shall not by reason of being temporarily absent from Great Britain be disqualified for receiving any benefit in respect of incapacity if—
    - (a) the absence is for the specific purpose of being treated for incapacity which commenced before he left Great Britain; or
    - (b) in the case of sickness benefit and invalidity benefit the incapacity for work is the result of a personal injury of a kind mentioned in section 94(1) of the Social Security Contributions and Benefits Act 1992 and the absence is for the specific purpose of receiving treatment which is appropriate to that injury; or
    - (c) on the day on which the absence began he was, and had for the past 6 months continuously been, incapable of work and on the day for which benefit is claimed he has remained continuously so incapable since the absence began.
  - (1B) A person who is a member of the family of a serving member of the forces and temporarily absent from Great Britain by reason only of the fact that he is living with that member shall not by reason of being temporarily absent be disqualified—
    - (a) for receiving any benefit in respect of incapacity except severe disablement allowance if—
      - (i) the absence is for the specific purpose of being treated for incapacity which began before he left Great Britain, or
      - (ii) in the case of sickness benefit and invalidity benefit the incapacity for work is the result of a personal injury of a kind mentioned in section 94(1) of the Social Security Contributions and Benefits Act 1992 and the absence is for the specific purpose of receiving treatment which is appropriate to that injury, or
      - (iii) on the day on which the absence began he was, and had for the past 6 months continuously been, incapable of work and on the day for which benefit is claimed he has remained continuously so incapable since the absence began;  
or
    - (b) for the receipt of severe disablement allowance.”.
- (4) After paragraph (4) there shall be added the following paragraph—
- “(5) In this regulation—
    - (a) “benefit in respect of incapacity” means sickness benefit, invalidity benefit, severe disablement allowance, an unemployability supplement or a maternity allowance;
    - (b) “member of the family of a serving member of the forces” means the spouse, son, daughter, step-son, step-daughter, father, father-in-law, step-father, mother, mother-in-law or step-mother of such a member; and
    - (c) “week” means any period of seven days.”.

### **Transitional provision**

3.—(1) In this regulation “the former regulation 2” means regulation 2 of the principal Regulations as in force immediately before these Regulations came into force<sup>(5)</sup>.

(2) Where, immediately before the coming into force of these Regulations, a person was absent from Great Britain but by virtue of the former regulation 2 was not disqualified for receiving any benefit, allowance or supplement referred to in paragraph (1) of the former regulation 2, that person shall continue not to be disqualified in respect of any day, if he—

- (a) has been continuously absent from Great Britain since these Regulations came into force; and
- (b) would, had the former regulation 2 been in force on that day, have satisfied the provisions of that regulation in respect of that benefit, allowance or supplement.

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

8th February 1994

*Alistair Burt*  
Parliamentary Under-Secretary of State,  
Department of Social Security

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(5) As to the amendments to regulation 2 in force at the time of the making of these Regulations, see footnote (d) on page 1 above.

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

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

These Regulations amend regulation 2 of the Social Security Benefit (Persons Abroad) Regulations 1975 (S. 1.1975/563) (“the principal Regulations”) which sets out the circumstances in which the disqualification for the receipt of certain benefits during periods of absence from Great Britain does not apply.

The benefits concerned are sickness benefit, invalidity benefit, severe disablement allowance, unemployability supplement and maternity allowance. Unemployability supplement ceased to be payable from 6th April 1987 except in the case of beneficiaries in receipt of it immediately before that date: it is still payable in that case see Part I (unemployability supplement) of Schedule 7 to the Social Security Contributions and Benefits Act 1992 (c. 4).

The principal effect of the Regulations is to restrict entitlement to these benefits to the first twenty-six weeks of a period of temporary absence from Great Britain unless the recipient is either a member of the family of a serving member of the forces who is abroad and with whom he is living, or is a person in receipt of attendance allowance or disability living allowance. (Regulation 2)

These Regulations contain a transitional provision which protects the position in respect of any day for anyone who—

- (a) was absent from Great Britain immediately before they came into force and was not subject to the disqualification for receipt of the relevant benefit, allowance or supplement imposed by section 113 of the Social Security Contributions and Benefits Act 1992 by virtue of regulation 2 of the principal Regulations as it stood immediately before the amendment (“the former regulation 2”);
- (b) has been continuously absent from Great Britain since they came into force; and
- (c) would have satisfied the former regulation 2 on that day. (Regulation 3)

The Report of the Social Security Advisory Committee dated 8th December 1993 on the draft of these Regulations which had been referred to them, together with a statement showing why these Regulations do not give effect to the Committee’s recommendations is contained in Command Paper Cm.2450 published by Her Majesty’s Stationery Office.

These Regulations do not impose a burden on business.