

**2004 No. 583**

**SOCIAL SECURITY**

**The Social Security Benefits Up-rating Regulations 2004**

*Made* - - - - - *3rd March 2004*

*Laid before Parliament* *12th March 2004*

*Coming into force* - - *12th April 2004*

The Secretary of State for Work and Pensions, in exercise of the powers conferred by sections 90, 113(1), 122(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(a) and sections 155(3), 189(1) and (4) and 191 of the Social Security Administration Act 1992(b) and of all other powers enabling him in that behalf, by this instrument, which contains only provisions in consequence of an order under section 150 of the Social Security Administration Act 1992, hereby makes the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Social Security Benefits Up-rating Regulations 2004 and shall come into force on 12th April 2004.

(2) In these Regulations, “the Up-rating Order” means the Social Security Benefits Up-rating Order 2004(c).

**Exceptions relating to payment of additional benefit by virtue of the Up-rating Order**

2. Section 155(3) of the Social Security Administration Act 1992 (effect of alteration of rates of benefit under Parts II to V of the Social Security Contributions and Benefits Act 1992) shall not apply 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 receipt of the benefit at the altered rate are satisfied,

until that question has been determined in accordance with the provisions of the Social Security Act 1998(d).

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(a) 1992 c. 4. Section 90 was amended by paragraph 26 of Schedule 8 to the Welfare Reform and Pensions Act 1999 (c. 30) and by paragraphs 1 and 2 of the Schedule to S.I. 2002/1457. Section 90 was also amended by Schedule 6 to the Tax Credits Act 2002 (c. 21) in respect of child dependency increases. Article 3 of S.I. 2003/938 saves the repealed provision in certain circumstances. Section 175(1) and (4) was amended by paragraph 29(2) and (4) respectively of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2). Section 122(1) is cited for the meaning assigned to the word “prescribe”.

(b) 1992 c. 5. Section 189(1) and (4) was amended by Schedule 8 to the Social Security Act 1998 (c. 14). Section 189(1) was amended by paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999. Section 191 is cited for the meaning assigned to the word “prescribe”.

(c) S.I. 2004/552.

(d) 1998 c. 14.

**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.

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

4. In paragraph 2B of Schedule 2 to the Social Security Benefit (Dependency) Regulations 1977(b) (increase of carer's allowance for child dependants)—

- (a) for “£160”, in both places where it occurs, substitute “£165”; and
- (b) for “£20” substitute “£21”.

**Revocations**

5. The Social Security Benefits Up-rating Regulations 2001(c) and the Social Security Benefits Up-rating Regulations 2002(d) (to the extent that they remain in force) and the Social Security Benefits Up-rating Regulations 2003(e) are hereby revoked.

Signed by authority of the Secretary of State for Work and Pensions.

*Malcolm Wicks*  
Minister of State,  
Department for Work and Pensions

3rd March 2004

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(a) S.I. 1975/563; relevant amending instruments are S.I. 1977/342, 1979/1432, 1988/435, 1989/1642, 1990/621, 1992/1700, 1994/1832 and 2000/2876.

(b) S.I. 1977/343; paragraph 2B was inserted by S.I. 1984/1699; relevant amending instruments are S.I. 2001/910, 2002/2497 and 2003/601.

(c) S.I. 2001/910.

(d) S.I. 2002/684.

(e) S.I. 2003/601.

## EXPLANATORY NOTE

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

This instrument contains only provisions in consequence of an order under section 150 of the Social Security Administration Act 1992 (up-rating of benefits). Accordingly, by virtue of paragraph 3 of Schedule 7 to that Act, the Secretary of State has not referred these Regulations to the Social Security Advisory Committee.

Regulation 2 provides that where a question has arisen about the effect of the Social Security Benefits Up-rating Order 2004 (S.I. 2004/552) (“the Up-rating Order”) on a benefit already in payment, the altered rates will not apply until that question is determined by the Secretary of State, an appeal tribunal or a Commissioner.

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 Up-rating Order in cases where the beneficiary lives abroad.

Regulation 4 raises from £160 to £165 and from £20 to £21 the earnings limits for child dependency increases payable with a carer’s allowance. These increases were abolished by sections 1(3)(e) and 60 of, and Schedule 6 to, the Tax Credits Act 2002 but are saved for transitional cases by virtue of article 3 of the Tax Credits Act 2002 (Commencement No. 3 and Transitional Provisions and Savings) Order 2003.

Regulation 5 contains revocations consequential upon the coming into force of these Regulations.

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of business.

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