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STATUTORY INSTRUMENTS

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**2004 No. 960**

**SOCIAL SECURITY**

**The Guardian's Allowance Up-rating Regulations 2004**

*Made* - - - - *30th March 2004*  
*Laid before Parliament* *31st March 2004*  
*Coming into force* - - *12th April 2004*

The Commissioners of Inland Revenue, in exercise of the powers conferred by sections 113(1), 122(1) and 175(3) and (4) of the Social Security Contributions and Benefits Act 1992(1), sections 155(3), 189(1) and (4) and 191 of the Social Security Administration Act 1992(2), sections 113(1), 121(1) and 171(3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(3) and sections 135(3), 165(4) and (5) and 167(1) of the Social Security Administration (Northern Ireland) Act 1992 (4) and in each case now exercisable by them (5), make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Guardian's Allowance Up-rating Regulations 2004 and shall come into force on 12th April 2004.

(2) In these Regulations—

“the Great Britain Up-rating Order” means the Child Benefit and Guardian's Allowance Up-rating Order 2004(6);

“the Northern Ireland Up-rating Order” means the Child Benefit and Guardian's Allowance Up-rating (Northern Ireland) Order 2004(7); and

“the Up-rating Orders” means the Great Britain Up-rating Order and the Northern Ireland Order.

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- (1) 1992 c. 4. Section 122(1) is cited for the meaning assigned to the word “prescribe”. 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).
- (2) 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”.
- (3) 1992 c. 7.
- (4) 1992 c. 8. Section 167(1) is cited for the definition of “prescribe”.
- (5) See section 50 of the Tax Credits Act 2002 (c. 21).
- (6) S.I. 2004/942.
- (7) S.I. 2004/943.

### **Exceptions relating to payment of allowance by virtue of the Up-rating Orders**

2. Neither section 155(3) of the Social Security Administration Act 1992 (effect of alteration of rates of benefit under, amongst other provisions, section 77 of the Social Security Contributions and Benefits Act 1992) nor section 135(3) of the Social Security Administration (Northern Ireland) Act 1992 shall apply if a question arises as to either—

- (a) the weekly rate at which guardian's allowance is payable by virtue of either of the Up-rating Orders, or
- (b) whether the conditions for receipt of that allowance at the altered rate are satisfied,

until that question has been determined in accordance with the provisions of section 8 of the Social Security Act 1998<sup>(8)</sup> or Article 9 of the Social Security (Northern Ireland) Order 1998<sup>(9)</sup> (as the case may be).

### **Persons not ordinarily resident in either Great Britain or Northern Ireland**

3. Regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975<sup>(10)</sup> and regulation 5 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978<sup>(11)</sup> (application of disqualification in respect of up-rating of benefit) shall apply to any additional benefit payable by virtue of either of the Up-rating Orders.

*Ann Chant  
Helen Ghosh*

30th March 2004

Two of the Commissioners of Inland Revenue

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(8) 1998 c. 14. Section 8 applies to decisions of officers of the Board of Inland Revenue in respect of guardian's allowance by virtue of paragraph 15 of Schedule 4 to the Tax Credits Act 2002.

(9) S.I. 1998/1506 (N.I. 10). Article 9 applies to decisions of officers of the Board of Inland Revenue in respect of guardian's allowance by virtue of paragraph 18 of Schedule 4 to the Tax Credits Act 2002.

(10) S.I. 1975/563: there are amendments which are not relevant for present purposes.

(11) S. R. 1978 No. 114: there are amendments which are not relevant for present purposes.

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## EXPLANATORY NOTE

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

Regulation 2 provides that where a question has arisen about the effect of the Child Benefit and Guardian's Allowance Up-rating Order 2004 (S.I.2004/942) ("the Up-rating Order") or the Child Benefit or Guardian's Allowance Up-rating (Northern Ireland) Order (S.I. 2004/943" the Northern Ireland Up-rating Order") on a guardian's allowance already in payment, the altered rates will not apply until that question is determined by the Inland Revenue, an appeal tribunal or a Commissioner.

Regulation 3 applies the provisions of regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975 and the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978 so as to restrict the application of the increases specified in the Up-rating Orders in cases where the beneficiary lives abroad.

These Regulations do not involve new costs for business.