

2009 No. 607

SOCIAL SECURITY

The Social Security Benefits Up-rating Regulations 2009

Made - - - - *10th March 2009*

Laid before Parliament *16th March 2009*

Coming into force - - *6th April 2009*

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 90, 113(1), 122(1) and 175(1) and (3) of the Social Security Contributions and Benefits Act 1992(a) and sections 5(1)(p), 155(3), 189(1) and (4) and 191 of the Social Security Administration Act 1992(b).

As these Regulations contain only provisions in consequence of an order under sections 150 and 150A(c) of the Social Security Administration Act 1992 there is no requirement to consult the Social Security Advisory Committee in respect of them(d).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security Benefits Up-rating Regulations 2009 and shall come into force on 6th April 2009.

(2) In these Regulations, “the Up-rating Order” means the Social Security Benefits Up-rating Order 2009(e).

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,

(a) 1992 c.4. Section 90 was amended by section 70 of, and paragraph 26 of Schedule 8 to, the Welfare Reform and Pensions Act 1999 (c.30) and by article 2 of, and paragraphs 1 and 2 of the Schedule to, S.I. 2002/1457. Section 90 was also amended by section 60 of, and Schedule 6 to, the Tax Credits Act 2002 (c.21) (“the 2002 Act”) in respect of child dependency increases. Article 3 of S.I. 2003/938 saves the repealed provision in certain circumstances. Section 113(1) was amended by paragraph 38 of Schedule 24 to the Civil Partnership Act 2004 (c.33). Section 175(1) was amended by paragraph 29(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) (“the 1999 Act”). 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 section 86 of, and Schedules 7 and 8 to, the Social Security Act 1998 (c.14). Section 189(1) was also amended by section 2 of, and paragraph 57(2) of Schedule 3 to, the 1999 Act and section 60 of, and Schedule 6 to, the 2002 Act. Section 191 is cited for the meaning assigned to the word “prescribe”.

(c) Section 150A was inserted by section 5(1) of the Pensions Act 2007 (c.22).

(d) See paragraph 3 of Schedule 7 to the Social Security Administration Act 1992.

(e) S.I. 2009/ 497

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

Persons not ordinarily resident in Great Britain

3. Regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975(b) (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(c) (increase of carer's allowance for child dependants)—

- (a) for “£185”, in both places where it occurs, substitute “£195”; and
- (b) for “£25” substitute “£26”.

Amendment of the Social Security (Claims and Payments) Regulations 1987

5. In paragraph 4(2A) of Schedule 9 to the Social Security (Claims and Payments) Regulations 1987(d) (deductions from benefit and direct payment to third parties) for “£21.15”, in each place where it occurs, substitute “£21.90”.

Revocation

6. The Social Security Benefits Up-rating Regulations 2008(e) are revoked.

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

10th March 2009

Rosie Winterton
Minister of State,
Department for Work and Pensions

(a) 1998 c.14.

(b) S.I. 1975/563; relevant amending instruments are S.I. 1977/342, 1979/1432, 1988/435, 1989/1642, 1990/621, 1992/1700, 1994/1832, 2000/2876 and 2005/1551 and 2877.

(c) S.I. 1977/343. Paragraph 2B was inserted by S.I. 1984/1699; relevant amending instruments are S.I. 2002/2497 and 2008/667.

(d) S.I. 1987/1968. Sub-paragraph (2A) was inserted by S.I. 2003/2325; relevant amending instrument is S.I. 2008/667.

(e) S.I. 2008/667.

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument contains only provisions in consequence of an order under sections 150 and 150A of the Social Security Administration Act 1992 (c.5). 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 2009 (S.I. 2009/497) (“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, the First-tier Tribunal or the Upper Tribunal.

Regulation 3 applies the provisions of regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975 (S.I. 1975/563) 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 £185 to £195 and from £25 to £26 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 (c.21) 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 (S.I. 2003/938).

Regulation 5 increases from £21.15 to £21.90 the amount allowed for personal expenses for a person in accommodation for which benefit is paid to his accommodation provider.

Regulation 6 revokes the Social Security Benefits Up-rating Regulations 2008 (S.I. 2008/667).

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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