STATUTORY INSTRUMENTS

2017 No. 412

SOCIAL SECURITY

The Guardian's Allowance Up-rating Regulations 2017

Made - - - -	*at 1.30 p.m. on 15th March 2017*
Laid before Parliament	*16th March 2017*
Coming into force - -	*10th April 2017*

The Commissioners for Her Majesty's Revenue and Customs make the following Regulations in exercise of the powers conferred by sections 113(1) and 175(1), (3) and (4) of the Social Security Contributions and Benefits Act 1992(**a**), sections 155(3), 189(1), (4) and (5) and 191 of the Social Security Administration Act 1992(**b**), section 113(1) and 171(1), (3) and (4) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**c**), and sections 135(3), 165(1), (4) and (5), and 167(1) of the Social Security Administration (Northern Ireland) Act 1992(**d**) and now vested in them(**e**).

These Regulations contain only provisions in consequence of an instrument made under section 150 of the Social Security Administration Act 1992(**f**) and section 132(1) of the Social Security Administration (Northern Ireland) Act 1992(**g**).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Guardian's Allowance Up-rating Regulations 2017 and come into force on 10th April 2017.

(2) In these Regulations "the Up-rating Regulations" means the Tax Credits and Guardian's Allowance Up-rating etc Regulations 2017(**h**).

(**a**) 1992 c. 4. Section 113(1) was amended by the Civil Partnership Act 2004 (c. 33), Schedule 24, paragraph 38. Section 175(1) and (4) was amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2), Schedule 3, paragraph 29(2) and (4) respectively.

(**b**) 1992 c. 5. Section 189(1) was amended by the Social Security Contributions (Transfer of Functions, etc.) Act 1999, Schedule 3, paragraph 57(2); and the Tax Credits Act 2002 (c. 21), Schedule 6, paragraph 1. Section 189(4) was amended by S.I. 2013/252. Subsections (4) and (5) of section 189 were amended by the Social Security Act 1998 (c. 14), Schedule 7, paragraph 109. Section 191 is cited for the meaning given to the word "prescribe".

(**c**) 1992 c. 7. Section 113(1) was amended by the Civil Partnership Act 2004, Schedule 24, paragraph 92. Section 171(1) was amended by the Tax Credits Act 2002, Schedule 4, paragraph 5.

(**d**) 1992 c. 8. Section 165(1) was amended by S.I. 1999/671 and section 18(5) of the National Insurance Contributions Act 2014 (c. 7). Section 167(1) is cited for the meaning given to the word "prescribe".

(**e**) The functions of the Secretary of State, and the Department for Social Development (renamed as the Department for Communities by the Departments Act (Northern Ireland) 2016)) in Northern Ireland, so far as relating to guardian's allowance were (except as provided) transferred to the Commissioners of Inland Revenue by section 50 of the Tax Credits Act 2002. The functions of the Commissioners of Inland Revenue were transferred to the Commissioners of Her Majesty's Revenue and Customs by section 5(2) of the Commissioners for Revenue and Customs Act 2005 (c. 11).

(**f**) Section 150 was amended by section 6 of the Pensions Act 2007 (c. 22).

(**g**) Section 132 was amended by the Tax Credits Act, Schedule 4, paragraph 9.

(**h**) S.I. 2017/406.

Exceptions relating to payments of additional guardian's allowance by virtue of the Up-rating Regulations

2. Neither section 155(3) of the Social Security Administration 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 the Up-rating Regulations, or

(b) whether the conditions for receipt of guardian's 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(**a**) or article 9 of the Social Security (Northern Ireland) Order 1998(**b**).

Persons not ordinarily resident in either Great Britain or Northern Ireland

3. Regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975(**c**) and regulation 5 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978(**d**) (application of disqualification in respect of up-rating of benefit) shall apply to any additional benefit payable by virtue of the Up-rating Regulations.

Jim Harra
Edward Troup

At 1.30 p.m. on 15th March 2017 Two of the Commissioners for Her Majesty's Revenue and Customs

(**a**) 1998 c.14. References to a decision of the Secretary of State in Chapter 2 of Part 1 of the Social Security Act 1998 are to be construed as references to a decision of the Commissioners of Inland Revenue (or an officer of Inland Revenue where the power to decide is exercised by an officer of Inland Revenue) by virtue of paragraph 15 of Schedule 4 to the Tax Credits Act 2002. As detailed above the functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs. The functions of officers of the Board of Inland Revenue were transferred to officers of Her Majesty's Revenue and Customs by section 7(2) of the Commissioners for Revenue and Customs Act 2005. In so far as it is appropriate in consequence of section 7, a reference to an officer of the Board of Inland Revenue is to be read as a reference to an officer of Her Majesty's Revenue and Customs by virtue of section 50(2) of the Commissioners for Revenue and Customs Act 2005.

(**b**) S.I. 1998/1506 (N.I. 10). References to a decision of the Department in Chapter 2 of Part 2 of the Social Security (Northern Ireland) Order 1998 are to be construed as references to a decision of the Commissioners of Inland Revenue (or an officer of Inland Revenue where the power to decide is exercised by an officer of Inland Revenue) by virtue of paragraph 19 of Schedule 4 to the Tax Credits Act 2002. As detailed above, the functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty's Revenue and Customs and the functions of officers of Inland Revenue were transferred to officers of Her Majesty's Revenue and Customs, and a reference to an officer of Inland Revenue is to be read as a reference to an officer of Her Majesty's Revenue and Customs.

(**c**) S.I. 1975/563, amended by S.I. 2010/788 and 1977/342; there are other amending instruments but none is relevant.

(**d**) S.I. 1978/114; amended by S.R. (N.I.) 2010 No. 110; there are other amending instruments but none is relevant.

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument contains only provisions made in consequence of an instrument made under section 150 of the Social Security Administration Act 1992, and section 132(1) of the Social Security Administration (Northern Ireland) Act 1992.

Regulation 2 provides that where a question has arisen about the effect of the Tax Credits and Guardian's Allowance Up-rating etc. Regulations 2017 on a guardian's allowance already in payment, the altered rates will not apply until that question is determined by Her Majesty's Revenue and Customs, an appeal tribunal or a Commissioner.

Regulation 3 applies the provisions of regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975 (S.I. 1975/563) and regulation 5 of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1978 (S.I. 1978/114) to restrict the application of the increases specified in the Tax Credits and Guardian's Allowance Up-rating etc. Regulations 2017 in cases where the beneficiary is not ordinarily resident in the United Kingdom.

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

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