STATUTORY INSTRUMENTS

1988 No. 554

SOCIAL SECURITY

The Social Security Benefit (Dependency) Amendment Regulations 1988

Made - - - -	*21st March 1988*
Laid before Parliament	*21st March 1988*
Coming into force	*11th April 1988*

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 44(3)(c), 46(4), 49, 66(1)(d) and 84 of and Schedule 20 to the Social Security Act 1975(**a**) and section 18(4)(b) of the Social Security Act 1988(**b**) and of all other powers enabling him in that behalf, by this instrument, which contains only regulations made under section 18(4)(b) of the Social Security Act 1988 and provisions consequential upon section 20 of the Social Security Act 1986(**c**) and sections 4(3) and (4) and 10 of the Social Security Act 1988 and which is made before the end of a period of 12 months from the commencement of those enactments, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security Benefit (Dependency) Amendment Regulations 1988 and shall come into force on 11th April 1988.

(2) In these Regulations, "the principal regulations" means the Social Security Benefit (Dependency) Regulations 1977(**d**).

Substitution of regulation 4 of the principal regulations

2. For regulation 4 of the principal regulations (deeming benefit under the Act abated under section 12(2) of the Supplementary Benefits Act 1976 to be a contribution for the maintenance of children or adult dependants), there shall be substituted the following regulation–

"Deeming benefit under the Act abated under section 27(3) of the Social Security Act 1986 to be a contribution for the maintenance of children or adult dependants

4. Where for any period a person (in this regulation referred to as A) is entitled to, or to an increase in the amount of, any benefit prescribed under section 27(3)(a) of the Social Security Act 1986(**e**) (prevention of duplication of payments) in respect

(**a**) 1975 c.14; section 44(3)(c) was amended by the Child Benefit Act 1975 (c.61), section 21(1), Schedule 4, paragraph 16(b); the Social Security Act 1980 (c.30), sections 2 and 21, Schedule 1, paragraph 4(a); section 46(4) was substituted by the Social Security Act 1985 (c.53), section 13(3) and amended by the Social Security Act 1988 (c.7), Schedule 4, paragraph 9; section 49 was amended by the Health and Social Security Act 1984 (c.48), Schedule 4, paragraph 3; section 66(1)(d) was amended by the Child Benefit Act 1975 (c.61), section 21(1), Schedule 4, paragraph 23; the Social Security Act 1980 (c.30), sections 2 and 21, Schedule 1, paragraph 4(a) – it ceases to have effect on 6th April 1987 except for beneficiaries entitled to unemployability supplement immediately before that date – *see* the Social Security Act 1986 (c.50), Schedule 3, paragraph 4. Schedule 20 is cited because of the meaning ascribed to the words "Prescribed" and "Regulations".

(**b**) 1988 c.7. (**c**) 1986 c.50.

(**d**) S.I. 1977/343; the relevant amending instruments are S.I. 1984/1698 and 1987/355 and section 37(2) of the Social Security Act 1986 (c.50). (**e**) 1986 c.50.

of another person (in this regulation referred to as B) and the amount of, or of the increase in, any such benefit is abated under section 27(3) of the Social Security Act 1986, then in determining for the purpose of the Social Security Act 1975 whether A is wholly or mainly maintaining or is contributing at any weekly rate to the maintenance of, or is or has been contributing at any weekly rate to the cost of providing for, B, the amount by which such benefit for any week has been so abated shall be deemed to be a contribution of that amount for that week made by A for the maintenance of B."

Amendment of regulation 4B(3) of the principal regulations

3. In regulation 4B(3) of the principal regulations(**a**) (circumstances in which person entitled to child benefit is to be treated as if he were not so entitled) for the words "or 7C (child receiving supplementary benefit) of the Child Benefit(General) Regulations 1976", there shall be substituted the words "or 7C (child receiving income support) of the Child Benefit (General) Regulations 1976(**b**) or any provision contained in regulations made under section 4(1) of the Child Benefit Act in so far as those regulations provide that child benefit is not to be payable by virtue of section 2(1)(aa) of the Child Benefit Act(**c**) and regulations made under that paragraph".

Increase of benefit for person having care of child

4. For sub-paragraph (e) of regulation 10(2) of the principal regulations (increase of benefit for person having care of child) there shall be substituted the following sub-paragraph–

"(e) has, in the case of a person with earnings, weekly earnings at or below the standard rate of increase and for this purpose weekly earnings derived from the person's employment by the beneficiary in caring for a child or children in respect of whom the beneficiary is entitled to child benefit shall be disregarded but only if the person is residing with the beneficiary."

Increase of invalid care allowance for adult dependant

5. In paragraph 7 of Schedule 2 to the principal regulations (**d**) (increase of invalid care allowance for adult dependants)–

(a) for sub-paragraph (a) there shall be substituted the following sub-paragraph–
"(a) a spouse whose weekly earnings do not exceed that amount;";

(b) for head (iii) of sub-paragraph (b) there shall be substituted the following head–
"(iii) if he has earnings, does not have weekly earnings exceeding that amount and for this purpose there shall be disregarded any weekly earnings derived from employment by the beneficiary in caring for a child or children in respect of whom the beneficiary is entitled to child benefit;".

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

Nicholas Scott
Minister of State,
Department of Health and Social Security

21st March 1988

(**a**) *See* S.I. 1987/355, regulation 3.
(**b**) S.I. 1976/965; the relevant amending instruments are S.I. 1980/1045 and 1988/521.
(**c**) Section 2(1)(aa) was inserted in the Child Benefit Act 1975 by the Social Security Act 1988, section 4(3); section 4(1) was amended by section 4(4) of the same Act.
(**d**) *See* section 37(2) of the Social Security Act 1986 (c.50).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made under various provisions of the Social Security Act 1975 and the Social Security Act 1988, are consequential upon provisions contained in both the Social Security Act 1986 and the Social Security Act 1988. Those provisions have not yet been in force for 12 months. The Regulations are therefore exempted by section 61(5) of the Social Security Act 1986 from reference to the Social Security Advisory Committee and have not been so referred.

Regulation 2 deems benefit under the Social Security Act 1975, abated for the purposes of income support, to be treated as a contribution for the maintenance of a child or adult dependant. This provision re-enacts the provisions of the former regulation 4 with the substitution for references to supplementary benefit of references to income support.

The Regulations further provide that–

(a) a person to whom child benefit is not payable in respect of a child is to be treated as not entitled to child benefit (regulation 3);

(b) entitlement to an increase in benefit in respect of a person having the care of a child does not arise where the person has weekly earnings which exceed the amount of the increase (regulation 4);

(c) that an adult dependency increase is not payable with invalid care allowance where the dependant has weekly earnings which exceed the amount of the increase (regulation 5).