STATUTORY INSTRUMENTS

1981 No. 1510

SOCIAL SECURITY

The Social Security Benefits Up-rating Regulations 1981

Made - - - -	26*th October* 1981
Laid before Parliament	2*nd November* 1981
Coming into Operation	23*rd November* 1981

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 17(1)(*a*), 36(9)(*b*), 58(3) and 131 of, and paragraph 2(1) of Schedule 14 to, the Social Security Act 1975 (**a**) and of all other powers enabling him in that behalf, after agreement with the Industrial Injuries Advisory Council that proposals to make these regulations should not be referred to it (**b**), and after agreement with the Social Security Advisory Committee that proposals to make these regulations should not be referred to it (**c**), hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security Benefit Up-rating Regulations 1981 and shall come into operation on 23rd November 1981.

(2) In these regulations, unless the context otherwise requires—

"the Act" means the Social Security Act 1975;

"the up-rating order" means the Social Security Benefits Up-rating Order 1981 (**d**).

Conditions relating to payment of additional benefit under awards made before the appointed or prescribed day

2.—(1) This regulation applies to a case where—

(*a*) either—

(i) an award of any benefit under Chapters I to III of Part II of the Act has been made before the day appointed or prescribed for the payment of the benefit in question at a higher rate provided in or by virtue of the up-rating order, or

(ii) an award of any benefit under Part II of the Act has been made before the day appointed or prescribed for the payment of the benefit in question at a lower rate provided in or by virtue of the up-rating order;

(**a**) 1975 c.14.
(**b**) *See* Social Security Act 1975, section 141(2)(*b*), as substituted by Social Security Act 1981 (c.33), Schedule 2, paragraph 2.
(**c**) *See* Social Security Act 1980 (c.30), section 10(2)(*b*).
(**d**) S.I. 1981/1195.

(*b*) the period to which the award relates has not ended before that day; and

(*c*) the award does not, in accordance with the provisions of paragraph 2(2) of Schedule 14 to the Act, provide for the payment of the benefit at the higher or lower rate (as the case may be) as from that day.

(2) In a case to which this regulation applies, paragraphs 1 and 2 of Schedule 14 to the Act shall have effect subject to the condition that 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 the receipt of the benefit at the altered rate are satisfied,

the benefit shall, until the question has been determined in accordance with the provisions of the Act, be or continue to be payable at the weekly rate specified in paragraph (3) below.

(3) The weekly rate referred to in paragraph (2) above is the weekly rate specified in the award or the weekly rate at which the benefit would have been paid if the question had not arisen, whichever is the lower.

Amendment of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1975

3. Regulation 3 of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1975(**a**) (persons deemed to be incapable of work) shall be further amended by the substitution in paragraph (3) for "£15.00" of "£16.50".

Amendment of the Social Security (Non-Contributory Invalidity Pension) Regulations 1975

4. Regulation 12 of the Social Security (Non-Contributory Invalidity Pension) Regulations 1975(**b**) (disqualification for non-contributory invalidity pension) shall be further amended by the substitution in paragraph (*d*) (iii) for "£15.00" of "£16.50".

Amendment of the Social Security (Industrial Injuries) (Benefit) Regulations 1975

5. Regulation 8 of the Social Security (Industrial Injuries) (Benefit) Regulations 1975(**c**) (earnings level for the purposes of unemployability supplement under section 58 of the Act) shall be further amended by the substitution for "£780" of "£858".

Persons not ordinarily resident in Great Britain

6. Regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975(**d**) (application of disqualification in respect of up-rating of benefit) shall apply to any additional benefit payable by virtue of the up-rating order.

Transitory provision

7.—(1) Where any person is entitled to receive unemployment benefit or sickness benefit, with increases for child dependants and with or without an in-

(**a**) S.I. 1975/564; the relevant amending instruments are S.I. 1979/1299, 1980/1505.
(**b**) S.I. 1975/1058; the relevant amending instrument is S.I. 1980/1505.
(**c**) S.I. 1975/559; the relevant amending instrument is S.I. 1980/1505.
(**d**) S.I. 1975/563, as amended by S.I. 1977/342, 1979/1432.

crease for an adult dependant, for 25th and 26th November 1981, and in his case the aggregate of—

(*a*) the weekly rate specified in paragraph 1 of Part I of Schedule 4 to the Act,

(*b*) (if he is entitled to receive an increase for an adult dependant) the weekly rate specified in column (3) of paragraph 1(*a*) of Part IV of that Schedule, and

(*c*) the weekly rate specified in column (2) of paragraph 1(*a*) of Part IV of that Schedule, multiplied by the number of child dependants in respect of whom he is entitled to receive increases

(reduced or adjusted as appropriate under any provision of the Act or regulations made thereunder), would, apart from this regulation but because of the up-rating order, be less for 26th than for 25th November, he shall continue to be entitled to receive that benefit and those increases at the same aggregate rate as for 25th November for so long as he is entitled to receive the same benefit for a continuous period without any change in the number of adult and child dependants for whom he is entitled to receive increases and without any further adjustment falling to be made to that aggregate rate as a result of the operation of any provision of the Social Security (Hospital In-Patients) Regulations 1975(**a**) or of the Social Security (Overlapping Benefits) Regulations 1979(**b**).

(2) Paragraph (1) above shall apply to injury benefit as it does to unemployment benefit or sickness benefit, but as if—

(*a*) for "paragraph 1 of Part I" there were substituted "paragraph 1(*a*) of Part V",

(*b*) for "column (3) of paragraph 1(*a*) of Part IV" there were substituted "paragraph 11 of Part V", and

(*c*) for "column (2) of paragraph 1(*a*) of Part IV" there were substituted "paragraph 9 of Part V".

(3) In the case of a person who is entitled to receive injury benefit for 25th November 1981 at a reduced weekly rate by virtue of the provisions of section 91(1) of the Act (maximum aggregate of weekly benefit payable for successive accidents), paragraph (1) above shall apply as if for "25th" and "26th" there were substituted respectively "24th" and "25th".

(4) Paragraph (1) above shall apply to maternity allowance as it does to unemployment benefit or sickness benefit, but as if—

(*a*) for "paragraph 1" and "paragraph 1(*a*)" there were substituted respectively "paragraph 4" and "paragraph 3", and

(*b*) for "25th" and "26th" there were substituted respectively "21st" and "23rd".

(5) Where the person first referred to in paragraph (1) above, or his spouse if they are residing together, is entitled to receive an allowance under section 70 of the Act (industrial death benefit) at the lower rate specified in paragraph 15(*b*) of Part V of Schedule 4 to the Act, that person shall be treated for the purposes of paragraph (1) above as if the child in respect of whom he or his spouse is entitled to receive that allowance were a child dependant in respect of whom he is entitled to receive an increase of unemployment benefit, sickness benefit, injury benefit or maternity allowance (as the case may be).

(**a**) S.I. 1975/555, amended by S.I. 1975/1058, 1977/342, 956, 1693, 1979/223.
(**b**) S.I. 1979/597, amended by S.I. 1980/1927.

Revocations

8. The Social Security Benefits Up-rating Regulations 1980(a) are hereby revoked.

Norman Fowler,
Secretary of State for Social Services.

26th October 1981.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations are made in consequence of the Social Security Benefits Up-rating Order 1981. Regulation 2 provides that in certain cases where a question has arisen about the effect of the Up-rating Order on a benefit already in payment the altered rates will not apply until the question is determined by an adjudicating authority. Regulations 3 to 5 raise to £16.50 a week, or £858 a year, as the case may be, the earnings limits which apply to recipients of sickness or invalidity benefit, non-contributory invalidity pension or unemployability supplement to industrial disablement pension. Regulation 6 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 Order in cases where the beneficiary lives abroad. Regulation 7 provides that where the effect of the Order would otherwise be to reduce the total amount of unemployment or sickness benefit, injury benefit or maternity allowance (including increases for children or payments of industrial death benefit comparable to such increases) the higher rate will continue in payment transitionally until the beneficiary ceases to be entitled or there is another change affecting the rate payable.

(a) S.I. 1980/1505.

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