STATUTORY INSTRUMENTS

1988 No. 436

SOCIAL SECURITY

The Social Security Benefits Up-rating Regulations 1988

Made - - - -	*7th March 1988*
Laid before Parliament	*17th 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 17(1)(a), 49(b), 58(3) and 131 of, and Schedule 20 to, the Social Security Act 1975(**a**) and section 64(2) of the Social Security Act 1986(**b**), and of all other powers enabling him in that behalf, by this instrument, which contains only provisions in consequence of an order under section 63 of the Act of 1986, makes the following regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security Benefits Up-rating Regulations 1988 and shall come into force on 11th April 1988.

(2) In these Regulations, unless the context otherwise requires –

"the Act" means the Social Security Act 1975;

"the 1986 Act" means the Social Security Act 1986;

"the up-rating order" means the Social Security Benefits Up-rating (No. 2) Order 1987(**c**);

and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

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 1 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; section 58(3) ceased to have effect on 6th April 1987 except in relation to certain beneficiaries – *See* section 39 of and paragraph 4 of Schedule 3 to the Social Security Act 1986 (c. 50) and S.I. 1987/354, Art. 2 and Schedule 1. Schedule 20 is cited because of the meanings ascribed to the words "Prescribe" and "Regulations".
(**b**) 1986 c. 50. (**c**) S.I. 1987/1978.

(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 section 64(3) of the 1986 Act, provide for the payment of the benefit at a higher or lower rate (as the case may be) as from that day.

(2) In a case to which this regulation applies, section 64(2) of the 1986 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).

(3) The weekly rate referred to in paragraph (2) 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.

Persons not ordinarily resident in Great Britain

3. Regulation 5 of the Social Security Benefit (Persons Abroad) Regulations 1975(**a**) (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 (Unemployment, Sickness and Invalidity Benefit) Regulations 1983

4. Regulation 3 of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1983(**b**) (persons deemed to be incapable of work) shall be further amended by the substitution in paragraph (3) for "£26.00" of "£27.00".

Amendment of the Social Security (General Benefit) Regulations 1982

5. Regulation 16 of the Social Security (General Benefit) Regulations 1982(**c**) (earnings level for the purpose of unemployability supplement) shall be further amended by the substitution for "£1352.00" of "£1404.00".

Earnings limit

6. The sums specified in paragraph 2B of Schedule 2 to the Social Security Benefit (Dependency) Regulations 1977(**d**) (prescribed circumstances for increase of invalid care allowance) shall be increased from £85, £10, and £85 to £90, £11 and £90 respectively.

Revocation

7. The Social Security Benefits Up-rating Regulations 1987(**e**) are hereby revoked.

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

Michael Portillo
Parliamentary Under-Secretary of State,
Department of Health and Social Security

7th March 1988

(**a**) S.I. 1975/563; the relevant amending instruments are S.I. 1977/342 and 1979/1432. (**b**) S.I. 1983/1598; the relevant amending instrument is S.I. 1987/688. (**c**) S.I. 1982/1408; the relevant amending instrument is S.I. 1987/327. Unemployability Supplement is only payable to those beneficiaries in receipt of it immediately before 6th April 1987 *See* Social Security Act 1986, section 39, Schedule 3, paragraph 4 and S.I. 1987/354, Art. 2, Schedule 1. (**d**) S.I. 1977/343; the relevant amending instruments are S.I. 1984/1699 and 1985/1618. (**e**) S.I. 1987/327.

EXPLANATORY NOTE

(This note is not part of the Regulations)

This instrument contains only provisions in consequence of an order under section 63 of the Social Security Act 1986 (up-rating of benefit). Accordingly, by virtue of paragraph 8 of Schedule 16 to the Social Security Act 1975 and paragraph 12(2) of Schedule 3 to the Social Security Act 1980 (c.30), the Secretary of State has not referred proposals to make the regulations contained in this instrument to the Industrial Injuries Advisory Council or to the Social Security Advisory Committee. Paragraph 8 and paragraph 12(2), mentioned above, were amended by the Social Security Act 1986, section 86 and Schedule 10, paragraphs 90 and 99 respectively.

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. Regulation 3 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 4 raises from £26.00 to £27.00 the earnings limit which applies to those undertaking work in certain circumstances while receiving sickness or invalidity benefit.

Regulation 5 raises from £1352.00 to £1404.00 a year the earnings limit which applies to unemployability supplement.

Regulation 6 specifies earnings limits for child dependency increases payable with invalid care allowance.

Regulation 7 contains a revocation consequential upon the coming into force of these regulations.