STATUTORY INSTRUMENTS

1986 No. 903

SOCIAL SECURITY

The Social Security (Claims and Payments, Hospital In-Patients and Maternity Benefit) Amendment Regulations 1986

Made - - -	28*th May* 1986
Laid before Parliament	9*th June* 1986
Coming into Operation	30*th June* 1986

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 22(1), 27(4), 85(1), 165A(1) and 166 of, and Schedule 20(**a**) to, the Social Security Act 1975(**b**) and of all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these regulations should not be referred to it(**c**), hereby makes the following regulations:—

Citation and commencement

1. These regulations may be cited as the Social Security (Claims and Payments, Hospital In-Patients and Maternity Benefit) Amendment Regulations 1986 and shall come into operation on 30th June 1986.

Amendment of the Social Security (Claims and Payments) Regulations 1979

2.— (1) The Social Security (Claims and Payments) Regulations 1979(**d**) (in this regulation called the "principal regulations") shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 3 of the principal regulations (claims not required for entitlement to benefit in certain cases) after paragraph *(d)* there shall be inserted the following paragraph—

> "*(e)* in the case of a Category B retirement pension where the beneficiary is a woman entitled to a retirement pension of any other category (or is treated as so entitled under section 36(7) of the National Insurance Act 1965(**e**)), on her husband attaining pensionable age and retiring."

(**a**) *See* the definition of "prescribe".
(**b**) 1975 c. 14; section 165A was inserted by the Social Security Act 1985 (c. 53), section 17.
(**c**) *See* section 10(2)*(b)* of the Social Security Act 1980 (c. 30).
(**d**) S.I. 1979/628; the relevant amending instrument is S.I. 1985/1250.
(**e**) 1965 c. 51; section 36, as set out in the Schedule to the Social Security (Graduated Retirement Benefit (No. 2) Regulations 1978 (S.I. 1978/393), was continued in force by regulation 3 of those regulations.

(3) For Schedule 1 to the principal regulations (prescribed times for claiming benefit) there shall be substituted the Schedule set out in the Schedule to these regulations.

(4) In the heading to Schedule 2 to the principal regulations for the words "AND RETIREMENT PENSIONS" there shall be substituted ", RETIREMENT PENSIONS AND DISABLEMENT BENEFIT".

(5) For sub-paragraph (1) of paragraph 3 of that Schedule there shall be substituted—

"(1) Subject to the following provisions of this paragraph, a claim for maternity allowance in expectation of confinement in respect of any day falling within the maternity allowance period, or for an increase in such an allowance in respect of an adult dependant, may be made at any time during the period of 3 weeks preceding the start of the maternity allowance period."

(6) After paragraph 4(2) of that Schedule there shall be inserted the following sub-paragraphs—

"(2A) Where a person who gives notice of retirement in accordance with paragraph (2) above is, or would, but for the fact of his retirement, be, in receipt of sickness, invalidity or unemployment benefit for a period which includes the date specified in the notice as the date of his retirement then, if the date so specified is not the appropriate day of the week for payment of retirement pension in his case, the notice shall be treated as if it specified instead the date of the next following such pay day.

(2B) Where the spouse of such a person as is mentioned in sub-paragraph (2A) above also gives notice of retirement and specifies the same date of retirement as that person the provisions of that sub-paragraph shall apply also to the notice given by the spouse."

(7) After paragraph 4 of that Schedule there shall be inserted the following paragraph—

"*Disablement benefit*

5.— (1) Subject to sub-paragraph (2), where, on a claim for disablement benefit, the assessment of the extent of disablement is such that there would be payable a disablement gratuity, the claimant shall not be disentitled to that gratuity by reason only of the fact that his claim was not made within the prescribed time.

(2) This paragraph does not apply to a disablement pension in lieu of a gratuity."

Amendment of the Social Security (Hospital In-Patients) Regulations 1975

3. After regulation 4 of the Social Security (Hospital In-Patients) Regulations 1975(**a**) there shall be inserted the following regulation—

(**a**) S.I. 1975/555; the relevant amending instruments are S.I. 1977/1693, 1979/223 and 1984/1303.

"*Provision for adjusting benefit for part of a week*

4A.— (1) Notwithstanding regulation 16(10) of the Social Security (Claims and Payments) Regulations 1979 (commencement or change in rate of benefit not to have effect until next following pay day) but subject to the following provisions of this regulation, where benefit has been adjusted in accordance with regulation 5, 6 or 7 and a further adjustment falls to be made by reason of the beneficiary's temporary absence from hospital, that adjustment shall have immediate effect; and any benefit which is not payable at a daily rate shall be deemed to be so payable at a rate equal to one-seventh of the appropriate weekly rate.

(2) An absence from hospital shall not be treated as temporary if, on the day the beneficiary leaves hospital, he is not expected to return within the following 28 days.

(3) An absence from hospital which would otherwise be treated as temporary shall cease to be so treated upon the expiration of 28 days from the first appropriate day of the week for the payment of the relevant benefit occurring after the beneficiary leaves hospital."

Amendment of the Social Security (Maternity Benefit) Regulations 1975

4.— (1) In paragraph (1) of regulation 4 of the Social Security (Maternity Benefit) Regulations 1975(**a**) for "14" there shall be substituted "11".

(2) Paragraph (2) of the said regulation 4 is hereby revoked.

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

John Major,
Parliamentary Under-Secretary of State,
Department of Health and Social Security.

28th May 1986.

(**a**) S.I. 1975/553, to which there are amendments not relevant to these regulations.

SCHEDULE Regulation 2(3)

SCHEDULE INSERTED IN THE PRINCIPAL REGULATIONS IN SUBSTITUTION FOR SCHEDULE 1

PRESCRIBED TIMES FOR CLAIMING BENEFIT

Description of benefit (1)	Prescribed time for claiming benefit (2)
1. Unemployment benefit.	The day in respect of which the claim is made.
2. Invalid care allowance.	As regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to benefit, that day and the period of 3 months immediately following it.
3. Sickness benefit, invalidity benefit or severe disablement allowance—	
(a) Where the claim is an original claim, that is to say, where the claimant has at no time made a claim for sickness benefit or severe disablement allowance under the Act or a claim which has been treated as a claim for sickness benefit or severe disablement allowance.	*(a)* The day in respect of which the claim is made and the period of 1 month immediately following it.
(b) Where the claim is not an original claim but is the first claim made by the claimant after he has become or again becomes incapable of work.	*(b)* The day in respect of which the claim is made and the period of 6 days immediately following it.
(c) Where the claim is a continuation claim, that is to say a claim to which neither sub-paragraph *(a)* nor sub-paragraph *(b)* of this paragraph applies.	*(c)* The day in respect of which the claim is made and the period of 10 days immediately following it.
4. Increase, in respect of a child or adult dependant, of unemployment benefit, sickness benefit, invalidity pension, maternity allowance, severe disablement allowance or an invalid care allowance.	The day in respect of which the claim is made and the period of 1 month immediately following it.
5. Maternity benefit—	
(a) Maternity grant in respect of expectation of confinement.	*(a)* The period beginning with the 14th week before the week in which it is to be expected that the claimant will be confined and ending immediately before the date of the confinement.

Regulation 2(3) SCHEDULE *(cont.)*

Description of benefit (1)	Prescribed time for claiming benefit (2)
(b) Maternity grant by virtue of the fact of confinement.	*(b)* The period of 3 months beginning with the date of confinement.
(c) Maternity allowance in respect of expectation of confinement (not being an increase of benefit in respect of an adult dependant).	*(c)* As regards any day falling within the maternity allowance period, the period of 4 weeks beginning with the first day of the week in which that day falls.
(d) Maternity allowance by virtue of the fact of confinement (not being an increase of benefit in respect of an adult dependant).	*(d)* As regards any day falling within the maternity allowance period (determined in accordance with regulation 6 of the Social Security (Maternity Benefit) Regulations 1975), the period of 4 weeks beginning with the first day of the week in which that day falls.
6. Retirement pension of any category (not including a Category B retirement pension to which a woman is entitled by virtue of section 29(5)), widow's benefit, benefit by virtue of section 39(4) corresponding to a widow's pension or a widowed mother's allowance, child's special allowance, guardian's allowance; and any increases of those benefits in respect of a child or adult dependant.	As regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to benefit, that day and the period of 3 months immediately following it.
7. Death grant.	The period of 6 months (or such longer period as the Secretary of State may determine in the circumstances of any particular case) beginning with the date of the death of the deceased.
8. Disablement benefit (not being an increase of benefit).	As regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to benefit, that day and the period of 3 months immediately following it.
9. Industrial death benefit.	As regards any day on which, apart from satisfying the condition of making a claim, the claimant is entitled to benefit, that day and the period of 3 months immediately following it.

SCHEDULE *(cont.)* Regulation 2(3)

Description of benefit (1)	Prescribed time for claiming benefit (2)
10. Increase of disablement benefit under section 58, 59, 60, 61, 62 or 63 on the grounds respectively of unemployability, special hardship, need of constant attendance, receipt of hospital treatment or exceptionally severe disablement, and increase of disablement benefit in respect of a child or adult dependant under section 64 or 66.	As regards any day on which, apart from satisfying the conditions that there is a current award of disablement benefit and the making of a claim, the claimant is entitled to benefit, that day and the period of 3 months immediately following it.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations further amend the Social Security (Claims and Payments) Regulations 1979, the Social Security (Hospital In-Patients) Regulations 1975 and the Social Security (Maternity Benefit) Regulations 1975.

An amendment to regulation 3 of the Claims and Payments Regulations is made by regulation 2(2), which prescribes a further case in which the making of a claim is not necessary for there to be entitlement to benefit, namely where a woman who is entitled to a retirement pension of any other category, or is treated as so entitled, becomes entitled to a Category B retirement pension when her husband retires on or after reaching pensionable age. In addition, regulation 2 amends the form of the timetable for claiming benefits by substituting a new Schedule 1 and by amending Schedule 2. Provision is also made, where a beneficiary or his spouse is in receipt of certain other benefits, for treating a notice of retirement which specifies a date of retirement other than a pension pay day as if it specified the next following such day.

Regulation 3 adds a new regulation 4A to the Hospital In-Patients Regulations which provides that where a person's benefit has been adjusted under regulation 5, 6 or 7 (persons in hospital for more than 8 weeks) and a further adjustment is needed because he leaves hospital temporarily, that adjustment shall have immediate effect, and any weekly benefit shall be payable at one-seventh of the weekly rate for each day.

Regulation 4 amends regulation 4 of the Maternity Benefit Regulations by substituting 11 for 14 as the prescribed number of weeks before the expected week of confinement for the purposes of section 22(1)*(a)* of the Social Security Act 1975, and by revoking paragraph (2).

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