STATUTORY INSTRUMENTS

1978 No. 1511

SOCIAL SECURITY

The Social Security (Overlapping Benefits) Amendment (No. 2) Regulations 1978

Made - - - -	23*rd October* 1978
Laid before Parliament	26*th October* 1978
Coming into Operation	16*th November* 1978

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 85 of the Social Security Act 1975**(a)** and of all other powers enabling him in that behalf, and after reference to the National Insurance Advisory Committee, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security (Overlapping Benefits) Amendment (No. 2) Regulations 1978 and shall come into operation on 16th November 1978.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889**(b)** shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

Amendment of the Social Security (Overlapping Benefits) Regulations 1975

2.—(1) Regulation 12(3) of the Social Security (Overlapping Benefits) Regulations 1975**(c)**, as amended**(d)** (priority between persons entitled to increase of benefit), shall be further amended in accordance with the provisions of paragraphs (2) to (6) of this regulation and shall accordingly have effect as set out in the Schedule hereto.

(2) In the said regulation 12(3), sub-paragraphs (*a*), (*b*) and (*c*) shall be re-lettered respectively (*b*), (*c*) and (*d*).

(3) At the commencement of the said regulation 12(3) there shall be inserted the following sub-paragraph:—

"(*a*) in a case where one of those persons has been awarded child benefit in respect of the child for that period, that one of them shall be entitled to the said increase;".

(4) The re-lettered sub-paragraph (*b*) shall be amended by inserting after the words "in a case" the words "where sub-paragraph (*a*) does not apply but".

(5) The re-lettered sub-paragraph (*c*) shall be amended by deleting after the words "in a case" the words "where sub-paragraph (*a*) above does not apply but" and substituting the words "where neither sub-paragraph (*a*) nor sub-paragraph (*b*) applies but".

(a) 1975 c. 14. **(b)** 1889 c. 63. **(c)** S.I. 1975/554.
(d) The relevant amending instruments are S.I. 1977/342, 1978/433.

(6) The re-lettered sub-paragraph (*d*) shall be amended by deleting the words "neither sub-paragraph (*a*) nor sub-paragraph (*b*) above applies" and substituting the words "none of the preceding sub-paragraphs applies".

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

Stanley Orme,
Minister for Social Security,
Department of Health and Social Security.

23rd October 1978.

Regulation 2(1)

SCHEDULE

Regulation 12(3) of the Social Security (Overlapping Benefits) Regulations 1975, as amended by these Regulations.

Priority between persons entitled to increase of benefit

12.—(3) Subject to paragraphs (5) and (6) where, but for the provisions of this paragraph, more than one person would be entitled to an increase of benefit in respect of the same child for the same period—

(*a*) *in a case where one of those persons has been awarded child benefit in respect of the child for that period, that one of them shall be entitled to the said increase;*

(*b*) in a case *where sub-paragraph* (*a*) *does not apply but* where one of those persons is entitled otherwise than by virtue of regulations made under Schedule 20 to the Act to child benefit in respect of the child for that period, that one of them shall be entitled to the said increase;

(*c*) in a case *where neither sub-paragraph* (*a*) *nor sub-paragraph* (*b*) *applies but* where the child is living with one and no other of those persons for that period, that one of them with whom the child is living shall be entitled to the said increase;

(*d*) in a case where *none of the preceding sub-paragraphs applies* but where one of those persons is a parent of the child, that one of them shall be entitled to the said increase.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations further amend regulation 12 of the Social Security (Overlapping Benefits) Regulations 1975 as substituted by regulation 10(5) of the Social Security (Child Benefit Consequential) Regulations 1977 and amended by the Social Security (Miscellaneous Amendments) Regulations 1978 so as to provide that where more than one person is entitled to receive an increase of benefit in respect of the same child, priority of entitlement among those persons claiming such an increase shall be given first to a person to whom Child Benefit has been awarded in respect of the child for the period for which the increase is claimed.

Regulation 12(3) as amended by these Regulations is set out in the Schedule to this instrument and the words added or substituted by these Regulations are shown in italics.

The Report of the National Insurance Advisory Committee dated 20th September 1978 on the draft of these Regulations referred to them is contained in Command Paper (Cmnd. 7379) published by Her Majesty's Stationery Office.

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