STATUTORY INSTRUMENTS

1978 No. 524

SOCIAL SECURITY

The Social Security (Overlapping Benefits) Amendment Regulations 1978

Made - - - -	3*rd April* 1978
Laid before Parliament	4*th April* 1978
Coming into Operation	6*th April* 1979

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, hereby makes the following regulations which only make provision consequential on the passing of the Social Security Pensions Act 1975(**b**) and which accordingly, by virtue of section 61(1)(*e*) of that Act, are not subject to the requirements of section 139(1) of the Social Security Act 1975 for prior reference to the National Insurance Advisory Committee:—

Citation, commencement and interpretation

1.—(1) These regulations, which may be cited as the Social Security (Overlapping Benefits) Amendment Regulations 1978, further amend the Social Security (Overlapping Benefits) Regulations 1975(**c**), as previously amended(**d**) (hereinafter referred to as "the principal regulations"), and shall come into operation on 6th April 1979.

(2) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**e**) shall apply, in relation to this instrument and the regulations revoked by it as if this instrument and the regulations revoked by it were Acts of Parliament and the revocations were repeals.

Amendment of regulation 2 of the principal regulations

2. In regulation 2 of the principal regulations (interpretation)—

(*a*) in paragraph (1) after the definition of "the Act" there shall be inserted the following definitions: —

> " 'the Pensions Act' means the Social Security Pensions Act 1975(**f**);
>
> 'benefit under Chapters I and II of Part II of the Act' includes benefit treated as included in Chapter I of Part II of the Act by virtue of section 66(2)(*b*) of the Pensions Act;";

(**a**) 1975 c. 14. (**b**) 1975 c. 60. (**c**) S.I. 1975/554.
(**d**) The relevant amending instruments are S.I. 1975/1058, 1573, 1976/409, 1736.
(**e**) 1889 c. 63. (**f**) 1975 c. 60.

(*b*) after paragraph (3) there shall be added at the end the following paragraph: —

"(4) For the purposes of these regulations, unless otherwise specified, additional component payable by virtue of section 6 of the Pensions Act shall be treated as a separate personal benefit included in Chapter I of Part II of the Act.".

New regulation to be inserted in the principal regulations

3. After regulation 2 of the principal regulations there shall be inserted the following regulation:—

"*Special provisions for widow's benefit and invalidity pension*

2A.—(1) This regulation applies where, apart from these regulations, there is payable for the same period to a person under pensionable age both—

(*a*) an invalidity pension; and

(*b*) a widowed mother's allowance or widow's pension (hereafter referred to in this regulation as "the widow's benefit").

(2) The total amount payable in respect of these benefits under this regulation shall be—

(*a*) the sum of the two basic components up to and not exceeding the rate specified in section 6(1)(*a*) of the Pensions Act; and

(*b*) the sum of the two additional components up to and not exceeding the maximum for the time being prescribed under section 9(3) of the Pensions Act.

(3) Subject to paragraph (4)—

(*a*) where the beneficiary has made application, before the payment is made, that the total amount payable should be treated as being made up of the rate of the invalidity pension, any balance being the widow's benefit, it shall be so treated;

(*b*) in any other case, that amount shall be treated as being made up of the rate of the widow's benefit, any balance being the invalidity pension.

(4) For the purposes of the remainder of these regulations (other than regulation 5(5)), which shall apply after adjustment has been made under this regulation, the total amount payable under this regulation shall be treated as a single long-term benefit payable on a weekly basis.".

Amendment of regulation 3 of the principal regulations

4.—(1) Regulation 3 of the principal regulations (adjustment of personal benefit under Chapters I and II of Part II of the Social Security Act 1975 where other personal benefit under those Chapters is payable) shall be amended in accordance with the following paragraphs of this regulation.

(2) In paragraph (1) for the words "paragraphs (2) and (3)" there shall be substituted the words "paragraphs (2), (3) and (3A)".

(3) In paragraph (2) for sub-paragraph (*f*) there shall be substituted the following sub-paragraph: —

"(*f*) additional component or graduated retirement benefit (except as provided by paragraph (3A)).".

(4) After paragraph (3) there shall be inserted the following paragraph: —

"(3A) Where there are payable 2 or more personal benefits to which this regulation applies with which additional component or graduated retirement benefit is payable as part of the rate of benefit or as an increase of benefit—

(*a*) for the purposes of adjustment falling to be made under paragraph (4) that additional component or graduated retirement benefit shall be treated as part of the personal benefit with which it is so payable;

(*b*) the provisions of sub-paragraph (*a*) shall apply before any further adjustment under these regulations; and

(*c*) for the purpose of any such further adjustment, the beneficiary shall be treated as having a single long-term benefit inclusive of whichever before adjustment under sub-paragraph (*a*) is the highest of the following amounts—

(i) the highest additional component payable, or

(ii) the highest graduated retirement benefit payable, or

(iii) the highest total of additional component and graduated retirement benefit payable together as part of the rate of and as an increase of any of those personal benefits.".

Amendment of regulation 4 of the principal regulations

5. In regulation 4 of the principal regulations (special provisions for earnings-related supplements and earnings-related addition to widow's allowance)—

(*a*) in paragraph (2) for the words "the deceased" there shall be substituted the words "a husband who has died";

(*b*) after paragraph (3), there shall be added at the end the following paragraph: —

"(4) For the purposes of paragraph (2), additional component or graduated retirement benefit, where it is, or but for this regulation would be, payable as part of the rate of or as an increase of another personal benefit, shall be treated as part of the personal benefit with which it is so payable.".

Amendment of regulation 5 of the principal regulations

6.—(1) Regulation 5 of the principal regulations (adjustments of personal benefit under Chapters I and II of Part II of the Social Security Act 1975 by reference to industrial injuries benefits and benefits not under that Act, and adjustments of industrial injuries benefits) shall be amended in accordance with the following paragraph of this regulation.

(2) In paragraph (1) after the words "Subject to" there shall be inserted the words "paragraph (5) and".

(3) For paragraph (4) there shall be substituted the following paragraph:—

"(4) Paragraph (1) and the Schedule to these regulations shall not require the adjustment of, or by reference to, additional component or graduated retirement benefit.".

(4) After paragraph (4) there shall be added at the end the following paragraph: —

"(5) Where—

(*a*) the column 2 benefit is industrial death benefit or war pension death benefit in either case payable to the beneficiary as the surviving spouse, and

(*b*) the column 1 benefit is Category A retirement pension or invalidity benefit which—

(i) is not calculated by reference to the rate specified in section 15(3)(*b*) or 16(3)(*b*) of the Pensions Act, or

(ii) has a basic component by virtue of the beneficiary's own own contributions (but not by virtue of those of a former spouse) which consists of either the rate specified in section 6(1)(*a*) of the Pensions Act or some percentage of that rate prescribed by regulations made under section 33(2) of the Act,

the adjustment under paragraph (1) shall not reduce that Column 1 benefit to less than the appropriate rate in sub-paragraph (*b*)(ii), together with, if any, increments payable under paragraph 2 of Schedule 1 to the Pensions Act and increase under section 28(7) of the Act.".

Amendment of regulation 9A of the principal regulations

7. In regulation 9A of the principal regulations (special provision relating to the adjustment of non-contributory invalidity pension and invalid care allowance) after the words "any other personal benefit" there shall be inserted the words "(other than additional component or graduated retirement benefit)".

Amendment of the Schedule to the principal regulations

8. In the Schedule to the principal regulations (personal benefits which are required to be adjusted by reference to benefits not under Chapters I and II of Part II of the Social Security Act 1975)—

(*a*) for paragraph 1 of Column 1 there shall be substituted the following paragraph: —

"1. Unemployment benefit or sickness benefit";

(*b*) for paragraph 4 of columns 1 and 2 there shall be substituted the following paragraph: —

"4. Retirement pension of any category (except any age addition) or invalidity benefit	4. Injury benefit, unemployability supplement, industrial death benefit or war pension death benefit in either case payable to that person as the surviving spouse and training allowance".

Revocations

9. Regulation 3(5) of and paragraph 5 of the Schedule to the principal regulations are hereby revoked.

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

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

3rd April 1978.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations amend the Social Security (Overlapping Benefits) Regulations 1975 so as to make provision in respect of benefits payable under the Social Security Pensions Act 1975.

SI 1978/524
ISBN 0-11-083524-7

