STATUTORY INSTRUMENTS

1981 No. 1524

SOCIAL SECURITY

The Supplementary Benefit (Aggregation) Regulations 1981

Made - - - -	21*st October* 1981
Laid before Parliament	2*nd November* 1981
Coming into Operation	23*rd November* 1981

ARRANGEMENT OF REGULATIONS

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The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 32A(*a*) and (*b*) and 34(1) and (3) of and paragraph 3(2)(*b*) of Schedule 1 to the Supplementary Benefits Act 1976(a) and of all other powers enabling him in that behalf, and for the purpose only of consolidating regulations hereby revoked, hereby makes the following regulations which are not subject to the requirement for prior Parliamentary approval (b):—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Supplementary Benefit (Aggregation) Regulations 1981 and shall come into operation on 23rd November 1981.

(a) 1976 c.71; the Act (other than sections 31, 32, 35 and 36 and Schedules 4 and 6 to 8) as amended is set out in Part II of Schedule 2 to the Social Security Act 1980 (c.30).
(b) *See* section 33(3)(*b*) of the Supplementary Benefits Act 1976.

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

"the Act" means the Supplementary Benefits Act 1976;

"allowance" means a supplementary allowance under section 1(1)(*b*) of the Act;

"Child Benefit Act" means the Child Benefit Act 1975(**a**);

"claimant" means a claimant for supplementary benefit;

"Conditions of Entitlement Regulations" means the Supplementary Benefit (Conditions of Entitlement) Regulations 1981 (**b**);

"patient" means a person (other than a prisoner) who is undergoing medical or other treatment as an in-patient in any hospital or similar institution;

"pension" means a supplementary pension under section 1(1)(*a*) of the Act;

"prisoner" means any person whose detention in a prison, remand centre, borstal institution or detention centre is for the time being authorised by law;

"pupil" means a person who is excluded from entitlement to supplementary benefit by section 6(2) of the Act (persons other than those in prescribed circumstances aged 16 or more but less than 19 and receiving relevant education);

"relevant education" has the meaning assigned to it in section 6(3) of the Act;

"week" means any period of 7 consecutive days.

(3) Except in so far as the context otherwise requires any reference in these regulations to a numbered regulation is to the regulation in these regulations bearing that number and any reference in a regulation to a numbered paragraph is to the paragraph of that regulation bearing that number.

Circumstances in which married couples are to be treated as being, or not being, members of the same household

2.—(1) This regulation shall apply for the purposes of paragraph 3(1) of Schedule 1 to the Act (aggregation of requirements and resources of couples).

(2) Subject to paragraph (3), two persons who are married to each other shall not be treated as having ceased to be members of the same household by reason of any temporary absence the one from the other.

(3) Where two persons are married to each other and, before the occurrence of the circumstances to which this paragraph applies, were members of the same household, and one of them—

(*a*) is living away from his partner in residential accommodation, including accommodation provided pursuant to Part III of the National Assistance Act 1948(**c**) (provision of accommodation by local authorities), he shall continue to be treated as a member of the same household as his partner unless—

(i) his partner is not entitled to a pension or allowance but the couple have insufficient resources to pay the appropriate charges prescribed pursuant to section 22 of that Act, or

(ii) in the opinion of a benefit officer, his stay in that accommodation has become other than temporary;

(**a**) 1975 c.61. (**b**) S.I. 1981/1526. (**c**) 1948 c.29.

(*b*) is a patient, he shall continue to be treated as a member of the same household as his partner unless either—

(i) he has been a patient for a continuous period of more than 2 years, or

(ii) in the opinion of a benefit officer, his stay in that hospital or similar institution has become other than temporary, or

(iii) he is a patient detained in a hospital provided under section 4 of the National Health Service Act 1977(**a**) or section 89(1) of the Mental Health (Scotland) Act 1960(**b**) (special or State hospitals);

(*c*) is absent from Great Britain while his partner remains in Great Britain, he shall continue to be treated as a member of the same household as his partner unless he has been absent for a continuous period of more than 4 weeks and—

(i) he is a claimant to whom regulation 3 of the Conditions of Entitlement Regulations (persons abroad whose entitlement is to continue) applies, or

(ii) before the absence began he was not, or would not have been if a claim for a pension or allowance had been made, the relevant person for the purposes of paragraph 2(3) of Schedule 1 to the Act;

(*d*) is a prisoner for any period, he shall be treated as not being a member of the same household as his partner for that period.

Circumstances in which a person is to be treated as being responsible for another person

3.—(1) This regulation shall apply for the purposes of paragraph 3(2) of Schedule 1 to the Act (aggregation of requirements and resources of dependants).

(2) A claimant (in this regulation referred to as A) shall be treated as responsible for another person (in this regulation referred to as B) where—

(*a*) B is a child or a pupil or a person to whom paragraph (5) applies;

(*b*) B is a member of the same household as A; and

(*c*) A and B are not a married or unmarried couple.

(3) Where the household includes, in addition to A and B, another member (in this regulation referred to as C) and—

(*a*) A and C are not a married or unmarried couple; and

(*b*) C is not a person whose requirements and resources fall to be aggregated with those of A,

any question as to whether A or C is responsible for B shall be determined by reference to the closeness to, and nature of the relationship with, B.

(4) Where a household includes both—

(*a*) a person to whom paragraph (5) applies; and

(*b*) a person who would be the claimant for a pension or allowance—

(i) if a claim were made, and

(ii) if the person mentioned in sub-paragraph (*a*) were a pupil,

the person to whom sub-paragraph (*b*) applies shall be treated as responsible for the person mentioned in sub-paragraph (*a*).

(**a**) 1977 c.49. (**b**) 1960 c.61.

(5) A person to whom this paragraph applies is a person who—

(*a*) is aged 19, but less than 20;

(*b*) is attending a course which would, if he were aged less that 19, be relevant education;

(*c*) attained the age of 19 on or after the first day of the autumn term of the college or school year applicable to his course;

(*d*) during the whole of the 2 years immediately preceding the beginning of his course was neither in remunerative full-time work within the meaning of section 6 of the Act nor available for employment within the meaning of section 5 of the Act, but was receiving relevant education; and

(*e*) is not in circumstances to which regulation 11 of the Conditions of Entitlement Regulations (circumstances in which persons receiving relevant education are to be entitled to supplementary benefit) would apply were he aged less than 19.

Dependants who are not to be treated as members of the household

4.—(1) This regulation shall apply for the purposes of paragraph 3(2) of Schedule 1 to the Act (aggregation of requirements and resources of dependants) where—

(*a*) a claimant (in this regulation referred to as A) is responsible for and would, but for this regulation, be a member of the same household as another person (in this regulation referred to as B); and

(*b*) by virtue of that paragraph B's requirements and resources would, but for this regulation, fall to be aggregated with and treated as A's.

(2) B shall be treated as not being a member of the same household as A where—

(*a*) B has been absent from Great Britain for a continuous period of more than 4 weeks;

(*b*) B is a prisoner;

(*c*) B has been a patient or has been in residential accommodation by virtue of any mental disorder or physical or mental handicap or illness for a continuous period of more than 12 weeks and the benefit officer is satisfied that neither A nor any other member of A's household maintains regular contact with him, by visiting him or otherwise;

(*d*) B is not living with A and—

(i) he is in the care of a local authority, or

(ii) he is maintained under a legally enforceable obligation by a person other than A, or

(iii) A is not treated as a person responsible for him for the purposes of section 3 of the Child Benefit Act (meaning of "person responsible for child" for purposes of entitlement to child benefit);

(*e*) B is a child or pupil or person to whom regulation 3(5) applies who is boarded out with A by a local authority or voluntary organisation within the meaning of the Child Care Act 1980(**a**);

(*f*) B is a child or pupil or person to whom regulation 3(5) applies who is placed in the care and possession of A and whom A proposes to adopt.

(**a**) 1980 c.5.

(3) In any case to which paragraph (2)(*a*) to (*d*) applies, B shall be treated as a member of the same household as A for any period during which he is living with A.

Dependants who are to be treated as members of the household

5. For the purposes of paragraph 3(2) of Schedule 1 to the Act a child or pupil or person to whom regulation 3(5) applies who is placed in the care and possession of a person other than his parent and whom that person proposes to adopt shall be treated as being a member of the same household as his parent, but only if that parent is treated as a person responsible for him for the purposes of section 3 of the Child Benefit Act.

Prescribed circumstances in which requirements and resources are to be aggregated

6. The prescribed circumstances for the purposes of paragraph 3(2)(*b*) of Schedule 1 to the Act (aggregation of requirements and resources in prescribed circumstances) shall be that the other person is a person to whom regulation 3(5) (person aged 19 attending a course of education) applies.

Circumstances in which two persons are not to be treated as an unmarried couple

7.—(1) Where a person (in this regulation referred to as A) has been in receipt of a pension or allowance determined by reference to requirements and resources which did not include those of another person (in this regulation referred to as B) but did by virtue of paragraph 3(2) of Schedule 1 to the Act (aggregation of requirements and resources of dependants) include those of another person or persons (in this regulation referred to as C) of whom B is not the parent and—

(*a*) a benefit officer has determined that A and B are living together as husband and wife so that the requirements and resources of A would, but for this regulation, by virtue of paragraph 3(1) of Schedule 1 to the Act (aggregation of requirements and resources of couples), be aggregated with those of B and A would no longer be entitled to that pension or allowance; and

(*b*) if B made a claim for a pension or allowance he would not be entitled to it in respect of himself and the persons (including A) whose requirements and resources would be aggregated with and treated as his by virtue of the said paragraph 3(1) and (2) (in this regulation those persons and B being referred to as "B's assessment unit"); and

(*c*) the immediate reduction in the income of B's assessment unit which would result from the loss of the pension or allowance payable to A would, in the opinion of the benefit officer, be disproportionate,

for a period of adjustment A and B shall not be an unmarried couple (within the meaning of that expression in section 34(1) of the Act).

(2) In this regulation "period of adjustment" means the period of 4 weeks beginning on the day on which the determination that A and B are not to be an unmarried couple is made, except that if within that period it is in the opinion of the benefit officer likely that the income of B's assessment unit will soon be increased, that period may be extended until that increase in income or for a further period of 6 weeks, whichever is the shorter period.

(3) Where by reason of this regulation A and B are not an unmarried couple, no person other than C shall be treated as a member of the same household as A for the purposes of any claim for a pension or allowance.

Polygamous relationships

8.—(1) Where between members of the same household there is a polygamous relationship—

(*a*) Two of the members of that relationship shall be treated as a married or, as the case may be, unmarried couple within the meaning of those definitions in section 34(1) of the Act; and

(*b*) the requirements and resources of all the members, and of any person who would be a dependant of any member if that member were a claimant, shall be aggregated with and treated as those of such member of that couple as may be appropriate in the circumstances.

(2) A person shall be treated as a member of a polygamous relationship where, but for the fact that the relationship includes more than two persons, he would be one of a married or unmarried couple.

Revocations

9. The regulations specified in column 1 of the Schedule to these regulations are hereby revoked to the extent mentioned in column 3 of that Schedule.

Norman Fowler,
Secretary of State for Social Services.

21st October 1981.

Regulation 9 SCHEDULE

Regulations revoked 1	Reference 2	Extent of revocation 3
The Supplementary Benefit (Aggregation) Regulations 1980	S.I. 1980/ 982	The whole regulations
The Supplementary Benefit (Aggregation, Requirements and Resources) Amendment Regulations 1980	S.I. 1980/1774	Regulation 2
The Supplementary Benefit (Miscellaneous Amendments) Regulations 1981	S.I. 1981/ 815	Regulation 2

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations are made for the purpose only of consolidating the Supplementary Benefit (Aggregation) Regulations 1980 with subsequent amending regulations. They contain provisions relating to the aggregation of requirements and resources for the purpose of entitlement to supplementary benefit.

Under paragraph 3(1) and (2) of Schedule 1 to the Supplementary Benefits Act 1976 (as extensively amended by the Social Security Act 1980) aggregation applies to couples who are married and living together in the same household, to unmarried couples who are living together as husband and wife otherwise than in prescribed circumstances, and in circumstances in which one person is responsible for and a member of the same household as a child under 16, or under 19 and still at college or school, or in prescribed circumstances. For the purposes of those provisions, regulation 2 of these regulations provides that married couples are to continue to be members of the same household for periods where one of them is temporarily absent from the other unless one is in hospital, residential accommodation or abroad in certain circumstances, or is in prison. Regulation 3 provides that a claimant is to be treated as responsible for any child ("dependant") under 16 or aged 16 – 19 and still at college or school who is a member of the same household as the claimant. Regulation 4 provides that a dependant for whom the claimant is responsible, but who is away from home or living with the claimant in certain circumstances, is not to be treated as a member of the same household as the claimant, while regulation 5 provides that in certain circumstances a child or young person in the care and possession of a person other than his parent prior to adoption is to be treated as in the same household as his parent. Regulation 6 provides that aggregation shall apply to a person aged 19 for whom the claimant is responsible by virtue of regulation 3.

Regulation 7 and 8 make provision in relation to men and women in special circumstances. Regulation 7 provides that certain persons who would be subject to aggregation as an unmarried couple and would not be entitled to supplementary pension or allowance, in circumstances in which one of them has a dependant and before being subject to aggregation had been so entitled, are not to be treated as such a couple for a period of adjustment. Regulation 8 provides for the aggregation of requirements and resources in a household where there is a polygamous relationship between members of that household.

Regulation 9, with the Schedule, specifies provisions which are revoked.

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