

## 1979 No. 1432

## SOCIAL SECURITY

**The Social Security Benefit (Persons Abroad)  
Amendment (No. 2) Regulations 1979**

*Made* - - - - - 9th November 1979

*Laid before Parliament* 9th November 1979

*Coming into Operation* 10th November 1979

The Secretary of State for Social Services, in exercise of the powers conferred upon him by section 131 of the Social Security Act 1975(a) and of all other powers enabling him in that behalf, without having referred any proposals on the matter to the National Insurance Advisory Committee since it appears to him that by reason of urgency it is inexpedient to do so(b), hereby makes the following regulations:—

*Citation, commencement and interpretation*

1. These regulations may be cited as the Social Security Benefit (Persons Abroad) Amendment (No. 2) Regulations 1979 and shall come into operation on 10th November 1979; and in these regulations “the principal regulations” means the Social Security Benefit (Persons Abroad) Regulations 1975(c).

*Amendment of regulation 4 of the principal regulations*

2. Regulation 4 of the principal regulations (modification of the Act in relation to widow’s benefit, child’s special allowance, guardian’s allowance and retirement pension) shall be amended as follows:—

(a) in paragraph (2)(b) for the words “9 of the Special Provisions Regulations” there shall be substituted the words “6 of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations 1979(d)”;

(b) after paragraph (2)(b) there shall be inserted the following paragraphs:

“(3) In the case of a Category A retirement pension the basic component of which falls to be increased under the provisions of section 9(2) or section 10(2) of the Social Security Pensions Act 1975(e) (special provisions for surviving spouses and for

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(a) 1975 c. 14.

(b) See section 139(1) of the Social Security Act 1975.

(c) S.I. 1975/563, to which there are amendments not directly relevant to these regulations.

(d) S.I. 1979/642.

(e) 1975 c. 60.

married women), the amount of the increase shall not exceed the sum which would be required to raise the basic component of that Category A retirement pension to the sum specified in section 6(1)(a) of the Social Security Pensions Act 1975 (rate of basic component of Category A retirement pension) or the weekly rate of Category B retirement pension specified in paragraph 9 of Part I of Schedule 4 to the Act, as the case may be, current at—

- (a) the date of retirement of the person whose pension falls to be so increased; or
- (b) the date on which that person was last ordinarily resident in Great Britain;

whichever is the later.

(4) Where, in the case of a Category A retirement pension the additional component of which falls to be increased under the provisions of section 9(3) of the Social Security Pensions Act 1975, the surviving spouse whose pension falls to be so increased, being over pensionable age at the date of the death of the former spouse, is not ordinarily resident in Great Britain, the amount of the increase shall not exceed the sum which would be required to raise the additional component of that Category A retirement pension to the maximum prescribed by regulation 2 of the Social Security (Maximum Additional Component) Regulations 1978(a) as amended by the Social Security (Maximum Additional Component) Amendment Regulations 1979(b) which would have been appropriate had the former spouse died on—

- (a) the date on which the surviving spouse was last ordinarily resident in Great Britain; or
- (b) 6th April 1979;

whichever is the later.”

*Amendment of regulation 5 of the principal regulations*

3.—(1) Regulation 5 of the principal regulations (application of disqualification in respect of up-rating of benefit) shall be amended in accordance with the provisions of this regulation.

(2) In paragraph (1) for the words “section 124 of the Act (up-rating of benefits)” there shall be substituted the words “section 124 or section 126A of the Act (up-rating of benefits and increments in guaranteed minimum pensions) as the case may be”.

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

“(b) in the case of a person who immediately before the appointed date is a widow or a widower, any additional Category B retirement pension, if the former spouse had died before the appointed date;”.

(4) In paragraph (5)(b) for the words “section 28(3) of the Act” there shall be substituted the words “regulation 8 of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations 1979”.

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(a) S.I. 1978/949.

(b) S.I. 1979/1428.

(5) For paragraph (6) there shall be substituted the following:—

“(6) The provisions of these regulations shall not affect the disqualification while absent from Great Britain of a person referred to in regulation 8 of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations 1979, being any such person other than a widow, who—

(a) is not ordinarily resident in Great Britain immediately before the appointed date; and

(b) is or becomes entitled to a Category A retirement pension the right to which is determined by taking into account under regulation 8 of the Social Security (Widow’s Benefit and Retirement Pensions) Regulations 1979 the contributions of that person’s former spouse;

for receiving any additional Category A retirement pension the right to which is so determined unless and until that person becomes ordinarily resident in Great Britain if—

(i) before the appointed date the former spouse had retired from regular employment and was not ordinarily resident in Great Britain; or

(ii) the former spouse died before the appointed date.”.

(6) For paragraph (7) there shall be substituted the following:—

“(7) Paragraph (3)(c) of this regulation shall not apply to a person in relation to a Category B retirement pension if that person’s spouse had not retired before the appointed date and either that person and that person’s spouse—

(i) were husband and wife immediately before that date; or

(ii) became husband and wife on or after that date.”.

*Patrick Jenkin,*

Secretary of State for Social Services.

9th November 1979.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations further amend the Social Security Benefit (Persons Abroad) Regulations 1975.

The Regulations modify the conditions relating to entitlement to basic component and additional component of retirement pension, and to the payment of up-rating increases, in relation to persons absent from and not ordinarily resident in Great Britain. They prescribe upper limits by which Category A retirement pensions of persons who are absent from Great Britain may be increased by any Category B pensions to which they become entitled.

The Regulations also adapt and apply the provisions of the principal regulations to the up-rating of increments in guaranteed minimum pensions, and to the up-rating of pensions payable to widowers and others on the contributions of their former spouses.

SI 1979/1432  
ISBN 0-11-094432-1



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