

1987 No. 1683

**SOCIAL SECURITY**

**The Social Security (Hospital In-Patients) Amendment  
(No. 2) Regulations 1987**

*Made - - - - - 23rd September 1987*

*Laid before Parliament 28th September 1987*

*Coming into force*

*Regulations 1, 2(1),  
2(2)(a)(i), (ii) and (iii)  
and (b) and 2(13)(c)*

*2nd November 1987*

*for all other purposes*

*11th April 1988*

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 81(4)(d), 82(6)(b) and 85(1) of and Schedule 20 to the Social Security Act 1975(a) and of all other powers enabling him in that behalf, after reference to the Social Security Advisory Committee(b), hereby makes the following Regulations:

**Citation, interpretation and commencement**

1. These Regulations, which may be cited as the Social Security (Hospital In-Patients) Amendment (No. 2) Regulations 1987, amend the Social Security (Hospital In-Patients) Regulations 1975(c) ("the principal Regulations") and shall come into force in the case of this regulation and regulation 2(1), 2(2)(a)(i), (ii) and (iii) and (b) and 2(13)(c) on 2nd November 1987 and in the case of the remainder of the Regulations on 11th April 1988.

**Amendment of the principal Regulations**

2.—(1) The principal Regulations shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) for the definition of "basic component" there shall be substituted the following definition—

““basic pension” means the higher weekly rate of basic pension specified in section 6(1)(a) of the Social Security Pensions Act 1975(d)”

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(a) 1975 c.14. Schedule 20 is cited because of the meaning ascribed to the word "Regulations".

(b) See sections 9 and 10 of the Social Security Act 1980. Section 10 was amended by paragraph 98 of Schedule 10 to the Social Security Act 1986 (c.50).

(c) S.I. 1975/555; relevant amending instruments are S.I. 1977/342, 956, 1693, 1979, 1984/1699, 1986/903 and 1987/31.

(d) 1975 c.60; section 6(1)(a) was amended by article 3 of the Social Security Benefits Up-rating Order 1987 (S.I. 1987/45).

and for any reference to "basic component" wherever that expression occurs in the principal Regulations there shall be substituted a reference to "basic pension"(a);

(ii) in the definition of "the Overlapping Benefits Regulations" for the words "Social Security (Overlapping Benefits) Regulations 1975" there shall be substituted the words "Social Security (Overlapping Benefits) Regulations 1979"(b);

(iii) in the definition of "personal benefit" the words from "but does not include" to the end shall be omitted;

(iv) after the definition of "40% of the basic pension" the following definition shall be inserted—

"60% of the basic pension means an amount equal to 3 times 20% of the basic pension;"

(b) in paragraph (2) for the words from "National Health" to "1947 to 1976" there shall be substituted the words "National Health Service Act 1977(c) or the National Health Service (Scotland) Act 1978(d)" and for the words from "and a person shall not be regarded" to the end of the paragraph there shall be substituted the words—

"and such a person shall be regarded as being maintained free of charge in such a hospital or similar institution for any period unless his accommodation and services are provided under section 65 of the National Health Service Act 1977 or section 58 of the National Health Service (Scotland) Act 1978."

(3) In regulation 4 (circumstances in which personal benefit is to be adjusted)—

(a) in paragraphs (a) and (c) for the reference to "8 weeks" there shall be substituted a reference to "6 weeks";

(b) in paragraph (d) the words "and before the 105th week" shall be omitted;

(c) paragraph (e) shall be omitted.

(4) In regulation 4A(1) (provision for adjusting benefit for part of a week) for the reference to "5, 6 or 7" there shall be substituted a reference to "5 or 6".

(5) For regulation 5 there shall be substituted the following regulation—

**"Adjustment of personal benefit after 6 weeks in hospital**

5. For any part of the period to which regulation 4(c) applies during which—

(a) the beneficiary has a dependant, the weekly rate of the personal benefit shall be reduced by 20% of the basic pension;

(b) he has no dependant, it shall be reduced by 40% of the basic pension, so however that where such a reduction would reduce the weekly rate to less than 20% of the basic pension, the reduction shall be such as will reduce it to that 20%."

(6) In regulation 6 (adjustment of personal benefit after 52 weeks in hospital)—

(a) paragraph (1)(b) for the reference to "20%" there shall be substituted a reference to "40%";

(b) paragraph (1)(c) for the reference to "40%" there shall be substituted a reference to "60%";

(c) for paragraph (2) there shall be substituted the following paragraph—

"(2) Where a person to whom regulation 4(d) applies has no dependant or has a dependant but has not made an application to the Secretary of State in accordance with paragraph (5) of this regulation, the weekly rate of his personal benefit shall be adjusted so that 20% of the basic pension is payable to him."

(d) in paragraph (3) the words "and regulation 7" and "or, as the case may be, regulation 7" shall be omitted.

(a) See section 18(1) of the Social Security Act 1986 (c.50).

(b) S.I. 1979/597.

(c) 1977 c.49.

(d) 1978 c.29.

- (7) Regulation 7 (adjustment of benefit after 104 weeks in hospital) shall be omitted.
- (8) In regulation 9(b) (circumstances in which dependency benefit is to be adjusted) for the reference to "8 weeks" there shall be substituted a reference to "6 weeks".
- (9) In regulation 11 (adjustment of dependency benefit where dependant is husband or wife of beneficiary and is in hospital)—
- (a) in paragraph (1)—
    - (i) for the words "Subject to the following paragraphs" there shall be substituted the words "Subject to paragraph (3)";
    - (ii) in paragraph (1)(a) for the reference to "8 weeks" there shall be substituted a reference to "6 weeks" and for a reference to "105th week" there shall be substituted a reference to "53rd week";
    - (iii) in paragraph (1)(b) for the reference to "104th week" there shall be substituted a reference to "52nd week";
  - (b) for paragraph 3 there shall be substituted the following paragraph—
 

"(3) Where both the dependant and the beneficiary are in-patients and each has been an in-patient for a period of not less than 52 weeks, for any part of the period of free in-patient treatment received by the beneficiary which occurs after the 52nd week of that treatment and during that part of the period during which the dependant is an in-patient which occurs after the 52nd week of the dependant's treatment, the dependency benefit which has been adjusted in accordance with paragraph (1)(b) shall not be payable unless the beneficiary makes an application to the Secretary of State which complies with regulation 12 to pay that benefit on his behalf to that dependant or some other person mentioned in regulation 12(b)."
- (10) In regulation 12 (application to the Secretary of State for the purposes of regulations 10 and 11)—
- (a) in paragraph (a) the words from "except that" to "of that regulation" shall be omitted;
  - (b) in paragraph (b), for the reference to "regulation 11(3)(a)" there shall be substituted a reference to "regulation 11(3)".
- (11) Regulation 15 (benefit payable on discharge from a hospital or similar institution) shall be omitted.
- (12) In regulation 16 (adjustment or further adjustment of benefit in certain cases after 52 weeks in hospital) the words in parenthesis in paragraph (1)(b) and paragraphs (5) and (6) shall be omitted.
- (13) In regulation 17 (calculation of periods)—
- (a) in paragraph (1) for the words "Parts II and III" to the end of the paragraph there shall be substituted the words "Parts II, III and IV of these Regulations" and the words "and regulation 20" shall be omitted;
  - (b) for paragraph (3) the following paragraph shall be substituted—
 

"(3) Where a person to whom paragraph (2) applies has ceased to reside—

    - (a) in prescribed accommodation in premises managed by a voluntary organisation; or
    - (b) in prescribed accommodation in a home which—
      - (i) is registered under Part I of the Registered Homes Act 1984<sup>(a)</sup> including a home which but for section 1(4) of that Act would be registered; or
      - (ii) is managed or provided by a body constituted by Act of Parliament or incorporated by Royal Charter; or
      - (iii) in Scotland, is registered under section 61 of the Social Work (Scotland) Act 1968<sup>(b)</sup> or, being an establishment provided by a housing association, registered with the Housing Corporation

<sup>(a)</sup> 1984 c.23.

<sup>(b)</sup> 1968 c.49; section 61 was amended by the Criminal Procedure (Scotland) Act 1975 (c.21), section 289E (as inserted by the Criminal Justice Act 1982 (c.48), section 54).

established by the Housing Act 1964(a) which provides care equivalent to that given in residential accommodation provided under Part IV of the Social Work (Scotland) Act 1968,

paragraphs (2) and (4) shall not apply unless and until he has received free in-patient treatment for a continuous period exceeding 6 weeks.”;

(c) in paragraph (5) for the words “Social Security (Contributions) Regulations 1975” there shall be substituted the words “Social Security (Contributions) Regulations 1979(b)” and for the reference to Schedule 5 there shall be substituted a reference to Schedule 3;

(d) after paragraph (5) there shall be added the following paragraph—

“(6) For the purposes of this regulation “prescribed accommodation” means in relation to any person—

(a) any hospital accommodation or similar accommodation in which that person is residing or has resided either as a patient or inmate or as a person in need of care and attention wholly or partly at the cost of the Secretary of State or any body exercising functions on behalf of the Secretary of State under the National Health Service Act 1977(c) or the National Health Service (Scotland) Act 1978(d); or

(b) residential accommodation provided to that person under section 27 of the National Health Service (Scotland) Act 1947(e), sections 21 to 24 and 26 of the National Assistance Act 1948(f) or section 7 of the Mental Health (Scotland) Act 1984(g);

(c) residential accommodation provided for that person under section 21(1) of and paragraph 1 or 2 of Schedule 8 to the National Health Service Act 1977(h) or, in Scotland, section 59 of the Social Work (Scotland) Act 1968 in both cases where board is available to that person,

but does not include any such accommodation for any period for which he is or was receiving free in-patient treatment.”.

(14) Regulation 20 (transitional provisions), which is spent, is revoked.

### Transitional provisions

3.—(1) Where resettlement benefit under regulation 15 of the principal Regulations is being paid to a person discharged from a hospital or similar institution on or before 11th April 1988, any benefit which has not been paid on that date shall be paid to that person in one sum.

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(a) 1964 c.56.

(b) S.I. 1979/591, to which there are amendments not relevant to these Regulations.

(c) 1977 c.49.

(d) 1978 c.29.

(e) 1947 c.27 (10 & 11 Geo.6); section 27 was amended by the Local Government and Miscellaneous Financial Provisions (Scotland) Act 1958 (c.64), Schedule 5 paragraph 9; the Mental Health (Scotland) Act 1960 (c.61), Schedule 5; the Health Services and Public Health Act 1968 (c.46), Schedule 4; and saved for the purposes of section 1(4) of the Social Work (Scotland) Act 1968 (c.49) by the National Health Service (Scotland) Act 1978 (c.29), Schedule 15 paragraph 15.

(f) 1948 c.29; section 21 was amended by the Local Government Act 1972 (c.70), Schedule 23 paragraphs 1 and 2 and Schedule 30; the National Health Service Reorganisation Act 1973 (c.32), Schedule 4 paragraph 44 and Schedule 5; the Housing (Homeless Persons) Act 1977 (c.48), Schedule; the National Health Service Act 1977 (c.49), Schedule 15 paragraph 5; the Health Services Act 1980 (c.53), Schedule 1 Part I paragraph 5. Section 22 was amended by the Social Work (Scotland) Act 1968 (c.49), section 87(4) and Schedule 9 Part I; the Supplementary Benefits Act 1976 (c.71), Schedule 7 paragraph 3; the Housing (Homeless Persons) Act 1977 (c.48), Schedule; the Social Security Act 1980 (c.30), section 20, Schedule 4 paragraph 2(1) and Schedule 5 Part II and the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 20(1)(a). Section 24 was amended by the National Assistance (Amendment) Act 1959 (c.30), section 1(1); the National Health Service (Scotland) Act 1972 (c.58), Schedule 6 paragraph 82; the Local Government Act 1972 (c.70), Schedule 23 paragraph 2; the National Health Service Reorganisation Act 1973 (c.32), Schedule 4 paragraph 45 and the Housing (Homeless Persons) Act 1977 (c.48), Schedule. Section 26 was amended by the Health Services and Public Health Act 1968 (c.46), section 44 and Schedule 4 and the Social Work (Scotland) Act 1968 (c.49), Schedule 9 Part I and applied by section 87(3); the Local Government Act 1972 (c.70), Schedule 23 paragraph 2; the Housing (Homeless Persons) Act 1977 (c.48), Schedule and the Health and Social Services and Social Security Adjudications Act 1983 (c.41), section 20(1)(b).

(g) 1984 c.36.

(h) 1977 c.49; paragraph 2 of Schedule 8 was amended by the Mental Health Act 1983 (c.20), Schedule 4 paragraph 47.

(2) Subject to paragraphs (3) and (4) where a person (the payee) has been in a hospital or similar institution before, and is in a hospital or similar institution after, 11th April 1988 any resettlement benefit which would have been payable to him had he been discharged on 10th April 1988 shall be payable to him notwithstanding the revocation of regulation 15 of the principal Regulations.

(3) Any resettlement benefit which is payable in accordance with paragraph (2) shall be paid in one sum upon the payee's discharge where—

- (a) his discharge from the hospital or similar institution was effected by and with the approval of a person authorised or empowered to discharge him, and
- (b) he is neither receiving free in-patient treatment nor residing in prescribed accommodation

except where, having regard to the circumstances of any particular case, the Secretary of State decides that payment shall be made by specified instalments.

(4) "Free in-patient treatment" has the meaning ascribed to it in regulation 2(2) of the principal Regulations and in this regulation "prescribed accommodation" means accommodation to which regulation 2(13)(d) of these Regulations refers.

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

*Michael Portillo*  
Parliamentary Under-Secretary of State,  
Department of Health and Social Security

23rd September 1987

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#### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Social Security (Hospital In-Patients) Regulations 1975 (the principal Regulations). The circumstances in which a person is not to be regarded as maintained free of charge while receiving treatment as an in-patient are amended by regulation 2(2)(b). Where social security benefits are payable to or in respect of a person who has been undergoing continuous medical or other treatment as an in-patient in a hospital or similar institution, those periods after which the rates of benefit are reduced are provided by regulation 2(3) to be 6 weeks for the first reduction of benefit and 52 weeks for the second reduction. New rates of reductions to be made from benefits are specified in regulation 2(6). Resettlement benefit is abolished by regulation 2(11) except where a person becomes entitled to the benefit before 11th April 1988 (regulation 3).

The Report of the Social Security Advisory Committee dated 29th April 1987 on the draft of these Regulations which had been referred to them together with a statement showing why the Regulations do not give effect to the Committee's recommendations is contained in Command Paper No. 215 published by Her Majesty's Stationery Office.