**1979 No. 97**

**SOCIAL SECURITY**

# The Social Security (Overlapping Benefits and Miscellaneous Amendments) Regulations (Northern Ireland) 1979

*Made* . . . . . 30*th March* 1979

*Coming into operation* . . . 6*th April* 1979

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 3(2), 66(3) and 85 of the Social Security (Northern Ireland) Act 1975(a), and of all other powers enabling it in that behalf, hereby makes the following regulations:

*Citation, commencement and interpretation*

**1.**—(1) These regulations may be cited as the Social Security (Overlapping Benefits and Miscellaneous Amendments) Regulations (Northern Ireland) 1979 and shall come into operation on 6th April 1979.

(2) Each provision of these regulations shall—

(*a*) in so far as it amends the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1975(b) (hereinafter referred to as "the Overlapping Benefits Regulations") be read as one with those regulations;

(*b*) in so far as it amends the Social Security Benefit (Computation of Earnings) Regulations (Northern Ireland) 1978(c) (hereinafter referred to as "the Computation of Earnings Regulations") be read as one with those regulations.

*Amendment of regulation 2 of the Overlapping Benefits Regulations*

**2.** In regulation 2(4) of the Overlapping Benefits Regulations for "of Article 8 of the Pensions Order" there shall be substituted "of the Act and the Pensions Order shall be deemed to include any increase so far as attributable to any additional component or to any increase so far as attributable to any additional component or to any increase by virtue of an order under section 120(d) of the Act providing for the up-rating of increments in guaranteed minimum pensions or paragraph 4A(e) of Schedule 1 to the Pensions Order or to any increase of graduated retirement benefit, and".

*Amendment of regulation 3 of the Overlapping Benefits Regulations*

**3.** In regulation 3(3A) of the Overlapping Benefits Regulations (adjustment of personal benefit under Chapters I and II of Part II of the Act where other personal benefit under those Chapters is payable) for "increase of benefit" there shall be substituted "increase of benefit, or, in a case where the

(a) 1975 c. 15
(b) S.R. 1975 No. 94 (I, p. 561); as amended by S.R. 1975 Nos. 202 (II, p. 1036) and 280 (II, p. 1352); S.R. 1976 Nos. 99 (I, p. 415) and 321 (II, p. 1635); S.R. 1977 No. 73 (I, p. 233); S.R. 1978 Nos. 90, 107 and 326
(c) S.R. 1978 No. 371
(d) As amended by paragraph 9 of Schedule 3 to the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5))
(e) As inserted by paragraph 7 of Schedule 1 to the Social Security (Northern Ireland) Order 1979

person entitled to receive the benefits is over pensionable age and one or more of the benefits includes either additional component or graduated retirement benefit while another of the benefits is payable at the rate referred to in section 14(6) or 15(4) of the Act, then the following provisions shall apply—"

*Amendment of regulation* 4 *of the Overlapping Benefits Regulations*

**4.**—(1) Regulation 4 of the Overlapping Benefits Regulations (special provisions for earnings-related supplements and earnings-related addition to widow's allowance) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (2) after "calculated" there shall be inserted "whether wholly or in part".

(3) At the end of paragraph (2) there shall be added "provided that where the widow is also entitled for the same period to graduated retirement benefit or additional component, or both of them, by virtue of her own contributions and the contributions of the husband who has died, the graduated retirement benefit or additional component to be adjusted shall be only that part which is payable by virtue of the contributions of the husband who has died.".

*Amendment of regulation* 6 *of the Overlapping Benefits Regulations*

**5.**—(1) Regulation 6 of the Overlapping Benefits Regulations (adjustment of dependency benefit in respect of a child where other dependency benefit is payable for that child) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (4) after the expression "guardian's allowance", where that expression first occurs, there shall be inserted the expression ", except in a case to which paragraph (5) applies,".

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

"(5) Where a death benefit by way of an allowance under section 70 or a guardian's allowance is payable to a person in respect of a child and any other dependency benefit specified in sub-paragraph (*b*) or (*d*) of paragraph (2) is payable to that or any other person in respect of that child for the same period, the death benefit or, as the case may be, the guardian's allowance shall be adjusted by deducting from it the other benefit and only the balance, if any, shall be payable.".

*Amendment of regulation* 12 *of the Overlapping Benefits Regulations*

**6.**—(1) Regulation 12 of the Overlapping Benefits Regulations (priority between persons entitled to increase of benefit) shall be amended by substituting for paragraph (2) the following paragraph:—

"(2) Where, but for the provisions of this paragraph, a man and his wife would both be entitled to an increase of retirement pension (being an increase of Category A or Category C retirement pension in his case and a Category B or Category C retirement pension in hers) in respect of the same child or children, that man shall, and his wife shall not, be entitled to the increase; and he shall be treated as so entitled for the purposes of this paragraph during any period for which he would be entitled but for the operation of any provision of the Act, with the exception of section 82(5)(*b*) (disqualification while undergoing imprisonment or detention), disqualifying him for the receipt of benefit.".