

Social Security (Insurance)

1955-14

OVERLAPPING BENEFITS REGULATIONS

Regulations made under s.24 of the Social Security (Insurance) Ordinance.

Subsidiary
1955.08.04-2

OVERLAPPING BENEFITS REGULATIONS

REVOKED BY 1996/094 as from 1.10.1996

(1955.08.04-2)

3.10.1955

Amending enactments	Relevant current provisions	Commencement date
Regs of 20.6.1961	reg.7(2)	
19.5.1966	regs.6(1) and 7(2)	
LN. 1973/101	reg.7(2)	
1973/116	reg.7(2)	
1974/001	reg.5(2) and Sch.	
1974/109	reg.7(2)	
1975/144	reg.7(2)	
1976/108	reg.7(2)	
1977/098	reg.4 and Sch.	
1977/144	reg.7(2)	
1978/001	reg.3(4)	
1978/111	reg.7(2)	
1979/102	reg.7(2)	
1980/116	reg.7(2)	
1981/112	reg.7(2)	
1982/087	reg.7(2)	
1983/104	reg.6(1) and 7(2)	
1984/094	regs.7(2)	
1985/138	regs.7(2)	24.12.1985
1986/124	regs. 7(2)	23.12.1986
1988/119	regs. 7(2)	27.12.1988
1990/004	regs 7(2)	26.12.1989

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SCHEDULE.

Personal benefits which are not required to be adjusted.

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Title.

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1. These Regulations may be cited as the Overlapping Benefits Regulations.

Interpretation.

- 2.(1) In these Regulations, unless the context otherwise requires,—

“death benefit” means any benefit, pension or allowance (whether under the Ordinance or otherwise) which, apart from these regulations, is payable in respect of the death of any person;

“the deceased” means, in relation to any death benefit, the person in respect of whose death that benefit, apart from these regulations, is payable ;

“dependency benefit” means that benefit, pension or allowance (whether under the Ordinance or otherwise) which, apart from these regulations, is payable to a person in respect of another person who is a child or an adult dependant;

“personal benefit” means that benefit, pension or allowance (whether under the Ordinance or otherwise) which, apart from these regulations, is payable to a person otherwise than in respect of another person who is a child or adult dependant.

- (2) Revoked.

- (3) Where under section 20 of the Social Security (Employment Injuries Insurance) Ordinance an orphan's pension is payable, it shall be treated for the purposes of these regulations as dependency benefit, payable to the person for the time being having the care of the orphan.

Adjustment of personal benefit under the Ordinance where other personal benefit is payable.

- 3.(1) Where, for any period, any personal benefit under the Ordinance and one or more of the personal benefits specified in sub-regulation (4) (hereafter in these regulations referred to as “the specified benefits”) or any other personal benefit under the Ordinance are, or, but for this regulation, would be payable to any person, then for that period-

- (a) every personal benefit under the Ordinance which is or would be payable shall, subject to the provisions of regulation 4, be adjusted by reference to each of the specified benefits (if any) payable for that period in accordance with the provisions of sub-regulation (2) ; and

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- (b) where (after such adjustment, if any) more than one personal benefit under the Ordinance would be payable for that period, an adjustment between those personal benefits shall be made in accordance with the provisions of sub-regulation (3).

(2) Where in accordance with sub-regulation (1) any personal benefit under the Ordinance is required to be adjusted for any period by reference to any specified benefit or benefits, then the amount which, but for this regulation, would be payable for that period in respect of that personal benefit under the Ordinance shall be reduced or extinguished by the deduction therefrom of the amount payable for that period in respect of that specified benefit or those specified benefits, and, subject to any further adjustment to be made in accordance with sub-regulation (3), only the balance (if any) shall be payable for that period in respect of that personal benefit under the Ordinance.

(3) Where in accordance with sub-regulation (1) an adjustment between any personal benefits under the Ordinance is required to be made for any period, then the amount payable for that period in respect of those personal benefits shall be the amount which, but for this provision, would be payable for that period in respect of one of those personal benefits if they would be so payable at equal rates ; or that one of them which would be so payable for that period at the higher or highest rate.

(4) The personal benefits referred to in this regulation as “the specified benefits” are–

- (a) any personal benefit by way of injury benefit or death benefit under the Social Security (Employment Injuries Insurance) Ordinance ;
- (b) any personal benefit by way of retirement pension under the Social Security (Non-Contributory Benefits and Unemployment Insurance) Ordinance.

Exceptions to regulation 3.

4. Any personal benefit under the Ordinance, which is specified in the first column of the Schedule shall not be adjusted by reference to any specified benefit in the corresponding paragraph of the second column of the Schedule.

Adjustment of dependency benefit under the Ordinance where other dependency benefit is payable.

5.(1) Where, for any period, any dependency benefit under the Ordinance is or, but for this regulation, would be payable to any person in respect of a child or an adult dependant, that dependency benefit shall be adjusted–

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- (a) in the case of dependency benefit in respect of a child, by reference to any other dependency benefit specified in sub-regulation (2) which is payable for that period in respect of that child ; or
- (b) in the case of dependency benefits in respect of an adult dependant, by reference to any other dependency benefit so specified which is payable for that period to that person in respect of that or any other adult dependant or to any person in respect of that adult dependant,

so that the amount which, but for this regulation would be payable in respect of that dependency benefit under the Ordinance shall be reduced or extinguished by the deduction therefrom of the amount payable for that period in respect of that other dependency benefit or those other dependency benefits by reference to which the dependency benefit under the Ordinance is required to be adjusted ,and only the balance (if any) shall be payable for that period in respect of that dependency benefit under the Ordinance.

(2) The dependency benefits referred to in the preceding paragraph of this regulation are any dependency benefit under the Ordinance, other than by way of old age pension, or under the Social Security (Employment Injuries Insurance) Ordinance, and any dependency benefit by way of retirement pension or unemployment benefit under the Social Security (Non-Contributory Benefits and Unemployment Insurance) Ordinance.

Adjustment of dependency benefit under the Ordinance where personal benefit is payable.

6.(1) Where, for any period, any one or more of the personal benefits specified in sub-regulation (2) is or are payable to any person-

- (a) if the weekly rate or aggregate weekly rate at which that personal benefit or those personal benefits (if more than one) is or are payable for that period is equal to or exceeds the full weekly rate of benefit payable in accordance with column 3 of Part V of Schedule 4 to the Social Insurance (Benefits) Regulations, there shall not be paid in respect of that person for that period any dependency benefit under the Ordinance ; and
- (b) in any other case, there shall not be paid in respect of that person for that period any dependency benefit under the Ordinance at a weekly rate exceeding the difference between the weekly rate or aggregate weekly rate at which that personal benefit or those personal benefits (if more than one) is or are payable for that period and the rate of the full weekly

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rate of benefit payable in accordance with column 3 of Part V of Schedule 4 to the Social Insurance (Benefits) Regulations

(2) The personal benefits referred to in sub-regulation (1) are any personal benefit under the Ordinance or under the Social Security (Non-Contributory Benefits and Unemployment Insurance) Ordinance, and any personal benefit by way of injury or death benefit under the Social Security (Employment Injuries Insurance) Ordinance.

Grants and gratuities.

7.(1) Nothing in these regulations shall be construed as requiring either–

- (a) that any personal benefit under the Ordinance by way of maternity grant or death grant ;hall be adjusted ; or
- (b) that any personal benefit or dependency benefit shall be adjusted by reason of personal benefit under the Ordinance by way of maternity grant or death grant or, except as provided in sub-regulation (2) by reason of any gratuity under the Social Security (Employment Injuries Insurance) Ordinance.

(2) Where a widow is entitled to death benefit under section 19 of the Social Security (Employment Injuries Insurance) Ordinance, then, notwithstanding that she may have opted to receive a gratuity instead of a pension, she shall be deemed for the purposes of these regulations to be entitled to a pension at the weekly rate of £34.90 week for life or until she remarries.

Priority of title to increases of benefit.

8. Where, but for any of the foregoing provisions of these regulations, two persons would be entitled to an increase of benefit under the Ordinance in respect of a third person, the person entitled thereto shall, as between such persons, be determined in accordance with the following order of priority :-

- (a) such one of the two persons as may be designated in a written notice to the Director, signed by the other;
- (b) such one of the two persons as the Director may in his discretion determine, having regard to the circumstances of the case.

Two increases of the same benefit to be treated as separate benefits.

9. For the purposes of these regulations, in any case where dependency benefit by way of increases of benefit in respect of more than one person

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(being a child or an adult dependant) is payable, each of such increases of benefit shall be treated as a separate dependency benefit.

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Provisions for adjusting benefit, etc., for part of a week.

10. (1) Where, in accordance with the provisions of these regulations, any benefit under the Ordinance is required to be adjusted for a part only of a week, then, for the purposes of making that adjustment and of determining the amount of that benefit which is payable for the part (if any) of that week for which it is not so required to be adjusted, the amount of the appropriate weekly rate of that benefit and of every benefit by reference to which it is so required to be adjusted shall, if it is not payable for that week at a daily rate equal to one-sixth of the appropriate weekly rate, be deemed to be so payable.

(2) In this regulation—

- (a) the expression “benefit” includes any pension or allowance (whether under the Ordinance or otherwise) ;
- (b) the expression “appropriate weekly rate” means, in relation to any benefit, the weekly rate at which it would be payable but for the provisions of these regulations.

Persons to be treated as entitled to benefit for certain purposes.

11. Any person who would be entitled to any benefit under the Ordinance but for these regulations shall be treated as if he were entitled thereto for the purpose of any rights or obligations under the Ordinance (whether of himself or some other person) which depend on his being so entitled, other than for the purposes of the right to payment of that benefit.

Public assistance.

12.(1) Where payments in respect of any benefit under the Ordinance are in arrears for any period and public assistance grants have been made by the Director for that period, the payments shall be abated to the extent to which the actual amount of those public assistance grants exceeds what would have been their amount, as decided by the Director, if such payments had not fallen into arrears.

(2) Where the liabilities of the Fund are reduced by virtue of sub-regulation (1), there shall be paid out of the Fund to the Consolidated Fund an amount equal to the reduction.

SCHEDULE.

Regulation 4.

**PERSONAL BENEFITS WHICH ARE NOT REQUIRED TO BE
ADJUSTED.**

Personal benefits under the Ordinance. 1.	other personal benefits 2.
(1) Old age pension	(1) a. Injury benefit under the Social Security (Employment Injuries Insurance) Ordinance; b. Death benefit payable to a woman a; the widow of the deceased under the Social Security (Employment in juries Insurance) Ordinance.
(2) Any personal benefit	(2) Death benefit payable to a person as the parent of the deceased under the Social Security(Employment Injuries Insurance) Ordinance.
(3) Widow's benefit	(3) Injury benefit under the Social Security (Employment Injuries Insurance) Ordinance.