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STATUTORY INSTRUMENTS

2009 No. 1488

SOCIAL SECURITY

**The Social Security (Equalisation of State Pension Age)
Regulations 2009**

<i>Made</i> - - - -	<i>9th June 2009</i>
<i>Laid before Parliament</i>	<i>1st July 2009</i>
<i>Coming into force</i> - -	<i>6th April 2010</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred on him by the enactments specified in the Schedule.

With respect to regulations 24 to 41, in accordance with section 176(1) of the Social Security Administration Act 1992(a) the Secretary of State has consulted with organisations appearing to him to be representative of the authorities concerned.

The Social Security Advisory Committee has agreed that proposals in respect of these Regulations should not be referred to it(b).

Citation and commencement

1. These Regulations may be cited as the Social Security (Equalisation of State Pension Age) Regulations 2009 and shall come into force on 6th April 2010.

Amendment of the Income Support (General) Regulations 1987

2. The Income Support (General) Regulations 1987(c) are amended as follows.

3.—(1) Schedule 2 (applicable amounts) is amended in accordance with this regulation.

(2) In paragraph 9 (pensioner premium for persons under 75), for “not less than 60” substitute “not less than the qualifying age for state pension credit”.

(3) In paragraph 10 (higher pensioner premium)—

(a) 1992 c. 5. Section 176(1) was amended by paragraph 23 of Schedule 9 to the Local Government Finance Act 1992 (c. 14), paragraph 3(4) of Schedule 13 to the Housing Act 1996 (c. 52) and section 69(6) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

(b) Section 173(1)(b) of the Social Security Administration Act 1992 (c. 5) provides that matter which would otherwise be referable to the Social Security Advisory Committee may not be so referred with the agreement of that Committee. These Regulations would otherwise be referable to the Committee by virtue of section 170 of that Act.

(c) S.I. 1987/1967. Relevant amending instruments are S.I. 1988/1445, S.I. 1989/534, S.I. 1990/1776, S.I. 2000/724, S.I. 2000/2629, S.I. 2002/3019, S.I. 2003/455, S.I. 2003/2379 and S.I. 2007/719.

- (a) in sub-paragraph (1)(b), for “not less than 60” substitute “not less than the qualifying age for state pension credit”;
- (b) in sub-paragraphs (1)(b)(ii)(aa) and (3)(b), for “his partner’s 60th birthday” substitute “the day his partner attained the qualifying age for state pension credit”;
- (c) in sub-paragraph (1)(b)(ii)(bb), for “the age of 60” substitute “the qualifying age for state pension credit”.

(4) In sub-paragraph (1)(b)(ii) of paragraph 11 (disability premium), for “is aged less than 60” substitute “has not attained the qualifying age for state pension credit”.

(5) In sub-paragraph (1) of paragraph 13A (enhanced disability premium), for “is aged less than 60” substitute “has not attained the qualifying age for state pension credit”.

4.—(1) Schedule 10 (capital to be disregarded) is amended in accordance with this regulation.

(2) In sub-paragraph (a) of paragraph 4, for “is aged 60 or over” substitute “has attained the qualifying age for state pension credit”.

Amendment of the Social Security (Claims and Payments) Regulations 1987

5. The Social Security (Claims and Payments) Regulations 1987(**a**) are amended as follows.

6.—(1) Regulation 36 (payment to a partner as alternative payee) is amended in accordance with this regulation.

(2) In paragraph (2), for “the other person has not yet attained the age of 60 in the qualifying week” substitute “in the qualifying week the other person has not yet attained the qualifying age”.

Amendment of the Social Security (Incapacity Benefit) (Transitional) Regulations 1995

7. The Social Security (Incapacity Benefit) (Transitional) Regulations 1995(**b**) are amended as follows.

8.—(1) Regulation 1 (citation, commencement and interpretation) is amended in accordance with this regulation.

(2) In paragraph (2), for the definition of “pensionable age” substitute—

““pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995(**c**)”.

Amendment of the Jobseeker’s Allowance Regulations 1996

9. The Jobseeker’s Allowance Regulations 1996(**d**) are amended as follows.

10.—(1) Regulation 1 (citation, commencement and interpretation) is amended in accordance with this regulation.

(2) In paragraph (3), after the definition of “polygamous marriage” insert—

““qualifying age for state pension credit” means—

- (a) in the case of a woman, pensionable age; or
- (b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;”.

(a) S.I. 1987/1968. Paragraph (2) of regulation 36 was inserted by S.I. 2002/2660 and was amended by S.I. 2005/2877.
 (b) S.I. 1995/310.
 (c) 1995 c. 26. Paragraph 1 of Schedule 4 was amended by paragraph 39 of Schedule 2 to the State Pension Credit Act 2002 (c. 16), paragraph 13 of Schedule 3 to the Welfare Reform Act 2007 (c. 5) and paragraph 4 of Schedule 3 to the Pensions Act 2007 (c. 22).
 (d) S.I. 1996/207. Relevant amending instruments are S.I. 1996/2538, S.I. 2000/1978, S.I. 2000/724, S.I. 2000/2629, S.I. 2003/455, S.I. 2007/719, S.I. 2008/1554 and S.I. 2009/497.

11.—(1) Regulation 49 (persons approaching retirement and the jobseeking period) is amended in accordance with this regulation.

(2) In paragraph (1)(b), for “the age of 60” substitute “the qualifying age for state pension credit”.

12.—(1) Schedule A1 (categories of members of a joint-claim couple who are not required to satisfy the conditions in section 1(2B)(b)) is amended in accordance with this regulation.

(2) For paragraph 13 substitute—

“Members who have attained the qualifying age for state pension credit

13. A member who has attained the qualifying age for state pension credit.”.

13.—(1) Schedule 1 (applicable amounts) is amended in accordance with this regulation.

(2) In Part 3 (premiums)—

- (a) in the heading to paragraph 10, for “over 60” substitute “over the qualifying age for state pension credit”;
- (b) in paragraph 10 (pensioner premium for persons over the qualifying age for state pension credit), for “the age of 60”, wherever those words occur, substitute “the qualifying age for state pension credit”;
- (c) in paragraph 12 (higher pensioner premium)—
 - (i) in sub-paragraph (1), for “the age of 60”, wherever those words occur, substitute “the qualifying age for state pension credit”;
 - (ii) in sub-paragraphs (1)(a)(ii) and (2)(b), for “his 60th birthday” substitute “the date he attained the qualifying age for state pension credit”;
- (d) in sub-paragraph (1) of paragraph 13 (disability premium), for “the age of 60”, wherever those words occur, substitute “the qualifying age for state pension credit”;
- (e) in sub-paragraph (1) of paragraph 15A (enhanced disability premium), for “is aged less than 60” substitute “has not attained the qualifying age for state pension credit”.

(3) In Part 4 (weekly amounts of premiums specified in Part 3), in sub-paragraph (2) of paragraph 20, for “aged over 60” substitute “who have attained the qualifying age for state pension credit”.

(4) In Part 4A (premiums for joint-claim couples)—

- (a) in the heading to paragraph 20E, for “the age of 60” substitute “the qualifying age for state pension credit”;
- (b) in paragraph 20E (pensioner premium where one member of a joint-claim couple has attained the qualifying age for state pension credit), for “the age of 60” substitute “the qualifying age for state pension credit”;
- (c) in paragraph 20F (higher pensioner premium)—
 - (i) in sub-paragraph (1)(a) and (b), for “the age of 60” substitute “the qualifying age for state pension credit”;
 - (ii) in sub-paragraph (1)(b)(i) for “his 60th birthday” substitute “the date he attained the qualifying age for state pension credit”;
 - (iii) in sub-paragraphs (1)(b)(ii) and (2)(b), for “the 60th birthday of either member of that couple” substitute “the date either member of that couple attained the qualifying age for state pension credit”;
- (d) in sub-paragraph (1) of paragraph 20G (disability premium), for “the age of 60” substitute “the qualifying age for state pension credit”;
- (e) in sub-paragraph (1) of paragraph 20IA (enhanced disability premium), for “is aged less than 60” substitute “has not attained the qualifying age for state pension credit”.

(5) In Part 4B (weekly amounts of premiums specified in Part 4A), in sub-paragraph (1) of paragraph 20M, for “is aged over 60” substitute “has attained the qualifying age for state pension credit”.

14.—(1) Schedule 2 (housing costs) is amended in accordance with this regulation.

(2) In sub-paragraph (1)(a) of paragraph 8 (general exclusions from paragraphs 6 and 7), for “is aged 60 or over” substitute “has attained the qualifying age for state pension credit”.

15.—(1) Schedule 6 (sums to be disregarded in the calculation of earnings) is amended in accordance with this regulation.

(2) In paragraph 5—

(a) in sub-paragraph (3)(b), for “is under the age of 60” substitute “has not attained the qualifying age for state pension credit”;

(b) in sub-paragraphs (4)(b) and (7)(a)(i), (b) and (c), for “the age of 60” substitute “the qualifying age for state pension credit”.

16.—(1) Schedule 6A (sums to be disregarded in the calculation of earnings of members of joint-claim couples) is amended in accordance with this regulation.

(2) In paragraph 1—

(a) in sub-paragraph (3)(b), for “is under the age of 60” substitute “has not attained the qualifying age for state pension credit”;

(b) in sub-paragraphs (4)(b) and (5)(a)(i), (b) and (c), for “the age of 60” substitute “the qualifying age for state pension credit”.

17.—(1) Schedule 8 (capital to be disregarded) is amended in accordance with this regulation.

(2) In sub-paragraph (a) of paragraph 4, for “is aged 60 or over” substitute “has attained the qualifying age for state pension credit”.

Amendment of the Social Fund Winter Fuel Payment Regulations 2000

18. The Social Fund Winter Fuel Payment Regulations 2000(a) are amended as follows.

19.—(1) Regulation 1 (citation, commencement and interpretation) is amended in accordance with this regulation.

(2) In paragraph (2), after the definition of “independent hospital” insert—

““qualifying age for state pension credit” means—

(a) in the case of a woman, pensionable age; or

(b) in the case of a man, the age which is pensionable age in the case of a woman born on the same day as the man;”.

20.—(1) Regulation 2 (social fund winter fuel payments) is amended in accordance with this regulation.

(2) In paragraph (1), for sub-paragraph (b) substitute—

“(b) in or before the qualifying week has attained the qualifying age for state pension credit.”.

21.—(1) Regulation 3 (persons not entitled to a social fund winter fuel payment) is amended in accordance with this regulation.

(2) In paragraph (1), for sub-paragraph (a)(i) substitute—

“(i) a partner of, and living with, a person who attained the qualifying age for state pension credit in or before the qualifying week and to whom state pension

(a) S.I. 2000/729, amended by S.I. 2000/2864, S.I. 2001/3375, S.I. 2003/1737, S.I. 2003/2192, S.I. 2004/2154, S.I. 2005/2687, S.I. 2005/2877, S.I. 2005/3360 and S.I. 2008/1554.

credit, an income-based jobseeker's allowance or an income-related employment and support allowance has been, or falls to be, paid in respect of the qualifying week;”.

Amendment of the State Pension Credit Regulations 2002

22. The State Pension Credit Regulations 2002(a) are amended as follows.

23.—(1) Part 1 (capital disregarded for the purpose of calculating income) of Schedule 5 (income from capital) is amended in accordance with this regulation.

(2) In paragraph 4(a), for “is either aged 60 or over or incapacitated” substitute “has attained the qualifying age for state pension credit or is incapacitated”.

Amendment of the Housing Benefit Regulations 2006

24. The Housing Benefit Regulations 2006(b) are amended as follows.

25.—(1) Regulation 83 (time and manner in which claims are to be made) is amended in accordance with this regulation.

(2) In paragraph (11), for “the age of 59 years and 35 weeks” substitute “the age which is 17 weeks younger than the qualifying age for state pension credit”.

26.—(1) Schedule 3 (applicable amounts) is amended in accordance with this regulation.

(2) In paragraph 12 (disability premium), for “is aged less than 60”, wherever those words occur, substitute “has not attained the qualifying age for state pension credit”.

(3) In sub-paragraph (1) of paragraph 15 (enhanced disability premium), for “is aged less than 60” substitute “has not attained the qualifying age for state pension credit”.

27.—(1) Schedule 4 (sums to be disregarded in the calculation of earnings) is amended in accordance with this regulation.

(2) In paragraph 3(3)(b), for “is under the age of 60” substitute “has not attained the qualifying age for state pension credit”.

28.—(1) Schedule 6 (capital to be disregarded) is amended in accordance with this regulation.

(2) In paragraph 4(a), for “where that person is either aged 60 or over or incapacitated” substitute “where that person has attained the qualifying age for state pension credit or is incapacitated”.

Amendment of the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

29. The Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(c) are amended as follows.

30.—(1) Regulation 64 (time and manner in which claims are to be made) is amended in accordance with this regulation.

(2) In paragraph (12), for “the age of 59 years and 35 weeks” substitute “the age which is 17 weeks younger than the qualifying age for state pension credit”.

31.—(1) Schedule 6 (capital to be disregarded) is amended in accordance with this regulation.

(2) In paragraph 4(a), for “where that person is either aged 60 or over or incapacitated” substitute “where that person has attained the qualifying age for state pension credit or is incapacitated”.

(a) S.I. 2002/1792. The relevant amending instrument is S.I. 2004/2327.

(b) S.I. 2006/213. Relevant amending instruments are S.I. 2008/1082 and S.I. 2008/2428.

(c) S.I. 2006/214.

Amendment of the Council Tax Benefit Regulations 2006

32. The Council Tax Benefit Regulations 2006(a) are amended as follows.

33.—(1) Regulation 69 (time and manner in which claims are to be made) is amended in accordance with this regulation.

(2) In paragraph (13), for “the age of 59 years and 35 weeks” substitute “the age which is 17 weeks younger than the qualifying age for state pension credit”.

34.—(1) Schedule 1 (applicable amounts) is amended in accordance with this regulation.

(2) In paragraph 12 (disability premium), for “is aged less than 60”, wherever those words occur, substitute “has not attained the qualifying age for state pension credit”.

(3) In sub-paragraph (1) of paragraph 15 (enhanced disability premium), for “is aged less than 60” substitute “has not attained the qualifying age for state pension credit”.

35.—(1) Schedule 3 (sums to be disregarded in the calculation of earnings) is amended in accordance with this regulation.

(2) In paragraph 3(3)(b), for “is under the age of 60” substitute “has not attained the qualifying age for state pension credit”.

36.—(1) Schedule 5 (capital to be disregarded) is amended in accordance with this regulation.

(2) In paragraph 4(a), for “where that person is either aged 60 or over or incapacitated” substitute “where that person has attained the qualifying age for state pension credit or is incapacitated”.

Amendment of the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006

37. The Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006(b) are amended as follows.

38.—(1) Regulation 53 (time and manner in which claims are to be made) is amended in accordance with this regulation.

(2) In paragraph (12A), for “the age of 59 years and 35 weeks” substitute “the age which is 17 weeks younger than the qualifying age for state pension credit”.

39.—(1) Schedule 4 (capital disregards) is amended in accordance with this regulation.

(2) In paragraph 4(a), for “where that person is either aged 60 or over or incapacitated” substitute “where that person has attained the qualifying age for state pension credit or is incapacitated”.

Amendment of the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006

40. The Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006(c) are amended as follows.

41.—(1) Schedule 3 (transitional and savings provisions) is amended in accordance with this regulation.

(2) In paragraph 5(2), in regulation 13 (restrictions on unreasonable payments) as set out in that paragraph, for paragraph (4)(a) substitute—

(a) S.I. 2006/215. Relevant amending instruments are S.I. 2008/1082 and S.I. 2008/2428.

(b) S.I. 2006/216. Relevant amending instrument is S.I. 2008/1042.

(c) S.I. 2006/217.

“(a) has attained the qualifying age for state pension credit; or”.

Amendment of the Employment and Support Allowance Regulations 2008

42. The Employment and Support Allowance Regulations 2008(a) are amended as follows.

43.—(1) Regulation 158 (meaning of “person in hardship”) is amended in accordance with this regulation.

(2) In paragraph (3)(e), for “is aged 60 or more” substitute “has attained the qualifying age for state pension credit”.

44.—(1) Schedule 9 (capital to be disregarded) is amended in accordance with this regulation.

(2) In paragraph 4(a), for “is aged 60 or over” substitute “has attained the qualifying age for state pension credit”.

Signed by authority of the Secretary of State for Work and Pensions.

Jim Knight
Minister of State,
Department for Work and Pensions

9th June 2009

(a) S.I. 2008/794.

SCHEDULE

Preamble

Enactments conferring powers under which these Regulations are made

The following provisions of the Social Security Contributions and Benefits Act 1992(a)—

- (a) subsection (1)(a), (d) and (e) of section 123(b) (income-related benefits);
- (b) subsections (2) to (4) of section 130A(c) (appropriate maximum housing benefit);
- (c) subsection (1) of section 135(d) (the applicable amount);
- (d) subsections (3) and (5)(b) of section 136 (income and capital);
- (e) subsection (1) of section 137(e) (interpretation of Part 7 and supplementary provisions);
- (f) subsections (2) and (4) of section 138(f) (payments out of the social fund);
- (g) subsections (1), (3) and (4) of section 175(g) (regulations, orders and schemes).

The following provisions of the Social Security Administration Act 1992(h)—

- (h) subsection (1)(a) to (d), (i) and (p) of section 5 (regulations about claims for and payments of benefit);
- (i) subsections (1)(a) to (d) of section 6 (regulations about council tax benefits administration);
- (j) subsection (1), (4) and (5) of section 189 (regulations and orders - general);
- (k) section 191 (interpretation - general).

The following provisions of the Social Security (Incapacity for Work) Act 1994(i)—

- (l) subsections (1), (5) and (7) of section 4 (power to provide for the transition to incapacity benefit);
- (m) subsection (1) of section 12 (general power to make transitional and consequential provision).

The following provisions of the Jobseekers Act 1995(j)—

- (n) subsection (5) of section 4 (amount payable by way of a jobseeker's allowance);
- (o) subsection (3) of section 5 (duration of a contribution-based jobseeker's allowance);
- (p) subsections (1) and (4)(b) of section 12 (income and capital: general);
- (q) subsection (1) of section 35 (interpretation);
- (r) subsections (1), (2) and (4) of section 36 (regulations and orders);

(a) 1992 c. 4.

(b) Section 123 was amended by paragraph 1 of Schedule 9 to the Local Government Finance Act 1992 (c. 14), Schedule 6 to the Tax Credits Act 2002 (c. 21), paragraph 1(1) and (2) of Schedule 5 to the Welfare Reform Act 2007 (c. 5) and S.I. 2002/1397.

(c) Section 130A was inserted by section 30(2) of the Welfare Reform Act 2007 (c. 5).

(d) Section 135 was amended by Schedule 6 to the Health and Social Care Act 2001 (c. 15) and Schedule 6 to the Tax Credits Act 2002 (c. 21).

(e) Section 137 is cited due to the meaning ascribed to the word "prescribed". There are no relevant amendments.

(f) Section 138(4) is cited due to the meaning ascribed to the word "prescribed".

(g) Section 175 was amended by paragraph 29 of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and Schedule 6 to the Tax Credits Act 2002 (c. 21).

(h) 1992 c. 5. Relevant amendments to section 6(1) are by paragraph 12(1)(a) and (b) of Schedule 9 and by Schedule 14 to the Local Government Finance Act 1992 (c. 14). Section 189(1) was amended by paragraph 57(2) of Schedule 3 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and by Schedule 6 to the Tax Credits Act 2002 (c. 21). Section 189(1), (4) and (5) was amended by paragraph 109 of Schedule 7 to the Social Security Act 1998 (c. 14). Section 191 is cited due to the meaning ascribed to the word "prescribed".

(i) 1994 c. 18.

(j) 1995 c. 18. Paragraph 8A of Schedule 1 was inserted by paragraph 16(2) of Schedule 7 to the Welfare Reform and Pensions Act 1999 (c. 30). Section 35(1) is cited due to the meaning ascribed to the word "prescribed".

(s) paragraph 8A(1) of Schedule 1 (supplementary provisions).

The following provisions of the State Pension Credit Act 2002**(a)**—

- (t) subsection (6)(b) of section 15 (income and capital);
- (u) subsection (1) of section 17 (other interpretation provisions);
- (v) subsection (1) of section 19 (regulations and orders).

The following provisions of the Welfare Reform Act 2007**(b)**—

- (w) subsections (1) and (3)(b) of section 17 (income and capital: general);
- (x) section 18 (disqualification);
- (y) subsection (1) of section 24 (interpretation of Part 1).

(a) 2002 c.16. Section 17 is cited due to the meaning ascribed to the word “prescribed”.
(b) 2007 c. 5. Section 24(1) is cited due to the meaning ascribed to the word “prescribed”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend various enactments in consequence of the equalisation of state pension age introduced by the Pensions Act 1995 (c. 26). The amendments provide that where benefit provision is aligned with the age at which women become eligible for state pension, that alignment will be maintained as women's state pension age increases from 6th April 2010.

Regulations 2 to 4 amend the Income Support (General) Regulations 1987 (S.I. 1987/1967) with respect to:

- eligibility for the disability premium, enhanced disability premium, pensioner premium and higher pensioner premium;
- the disregard of the capital value of a property occupied by a relative aged 60 or over.

Regulations 5 and 6 amend the Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968) with respect to the qualifying age for a winter fuel payment.

Regulations 7 and 8 amend the Social Security (Incapacity Benefit) (Transitional) Regulations 1995 (S.I. 1995/310) to substitute the definition of "pensionable age" for that provided by the Pensions Act 1995.

Regulations 9 to 17 amend the Jobseeker's Allowance Regulations 1996 (S.I. 1996/207) to:

- make provision corresponding to that made by regulations 2 to 4;
- phase out provision enabling men aged 60 or over to have days treated as part of a jobseeking period when they are not actively seeking work;
- increase the age from which housing costs can be included without a waiting period;
- make changes to the conditions for eligibility for the higher disregard of earnings to correspond with those made to the disability and higher pensioner premiums..

Regulations 18 to 21 amend the Social Fund Winter Fuel Payment Regulations 2000 (S.I. 2000/729) to increase the qualifying age for entitlement to a winter fuel payment.

Regulations 22 and 23 amend the State Pension Credit Regulations 2002 (S.I. 2002/1792) to make provision corresponding to that made by regulation 4 with respect to the disregard of capital.

Regulations 24 to 39 amend the Housing Benefit Regulations 2006 (S.I. 2006/213), the Housing Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/214), the Council Tax Benefit Regulations 2006 (S.I. 2006/215) and the Council Tax Benefit (Persons who have attained the qualifying age for state pension credit) Regulations 2006 (S.I. 2006/216) to:

- make the relevant corresponding changes to those made by the amendment of the Jobseeker's Allowance Regulations 1996;
- enable an advance claim for benefit to be made up to 17 weeks before the claimant attains the qualifying age for state pension credit.

Regulations 40 and 41 amend the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (S.I. 2006/217) in relation to the age at which restrictions on the amount of benefit payable in respect of rent are subject to additional conditions in the case of a person whose Housing Benefit is determined under rules in force at 1st January 1996.

Regulations 42 to 44 amend the Employment and Support Allowance Regulations 2008 (S.I. 2008/794) with respect to the age requirement for an exemption from disqualification for misconduct and to make provision corresponding to that made by regulation 4 with respect to the disregard of capital.

A full impact assessment has not been produced for this instrument as it has no impact on the private or voluntary sectors.

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SOCIAL SECURITY

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£5.50