STATUTORY INSTRUMENTS

1982 No. 1242

SOCIAL SECURITY

The Child Benefit (Claims and Payments) Amendment Regulations 1982

Made - - - -	31*st August* 1982
Laid before Parliament	13*th September* 1982
Coming into Operation	4*th October* 1982

The Secretary of State for Social Services, in exercise of powers conferred by sections 6(5), 8 and 11(2) of the Child Benefit 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, commencement and interpretation

1.—(1) These regulations may be cited as the Child Benefit (Claims and Payments) Amendment Regulations 1982 and shall come into operation on 4th October 1982.

(2) In these regulations, "the principal regulations" means the Child Benefit (Claims and Payments) Regulation 1976(**c**).

Amendment of the principal regulations

2.—(1) In regulation 6A (benefit payable four-weekly) for the words after "shall be payable" there is substituted—

"either—

(*a*) in a case to which regulation 6AA applies, in accordance with its provisions, or

(*b*) in any other case, in the last week of each successive period of four weeks of the period of entitlement.".

(2) Immediately after regulation 6A of the principal regulations there is inserted the following regulation:—

"Payment of benefit by direct credit transfer

6AA.—(1) Subject to the provisions of this regulation, benefit to which regulation 6A applies may, on the application of the person claiming, or

(**a**) 1975 c. 61; section 6(5) was extended by section 4(4) of the Social Security Act 1980 (c. 30) and section 11(2) was amended by section 3 of, and paragraph 4 of Schedule 1 to, the Social Security Act 1981 (c. 33).
(**b**) *See* sections 9 and 10 of the Social Security Act 1980.
(**c**) S.I. 1976/964; the relevant amending instrument is S.I. 1981/1772.

entitled to it, and with the consent of the Secretary of State, be paid by way of automated or other direct credit transfer into a bank or other account—

(*a*) in the name of the person entitled to benefit, or his spouse, or a person acting on his behalf, or

(*b*) in the joint names of the person entitled to benefit and his spouse, or the person entitled to benefit and a person acting on his behalf.

(2) An application for benefit to be paid in accordance with paragraph (1)—

(*a*) shall be in writing on a form approved for the purpose by the Secretary of State or in such other manner, being in writing, as he may accept as sufficient in the circumstances, and

(*b*) shall contain a statement or be accompanied by a written statement made by the applicant declaring that he has read and understood the conditions applicable to payment of benefit in accordance with this regulation and in particular that he has understood the effect that paragraph (6) would have in the event of any overpayment of benefit.

(3) Benefit shall be paid in accordance with paragraph (1) within seven days of the last day of each successive period of entitlement of four weeks.

(4) In respect of benefit which is the subject of an arrangement for payment under this regulation, the Secretary of State may make a particular payment by credit transfer otherwise than is provided by paragraph (3) if it appears to him appropriate to do so for the purpose of—

(*a*) paying any arrears of benefit, or

(*b*) making a payment in respect of a terminal period of an award, or of the period covered by the arrangement, where that terminal period is one of less than four weeks, or

for any similar purpose.

(5) The arrangement for benefit to be payable in accordance with this regulation may be terminated—

(*a*) by the person entitled to benefit or a person acting on his behalf by notice in writing delivered or sent to an office of the Department, or

(*b*) by the Secretary of State if the arrangement seems to him to be no longer appropriate to the circumstances of the particular case.

(6) In relation to payments of benefit which in pursuance of this regulation have been credited to a bank or other account under an arrangement made with the agreement of the person entitled to benefit, if in respect of that arrangement he made a statement in accordance with paragraph (2)(*b*) that he had read and understood the conditions applicable to payment of benefit in accordance with this regulation, section 119 of the Social Security Act

1975(**a**), as applied to child benefit by section 8(1) of the Act, shall have effect as if there were omitted from the said section 119 (repayment of overpaid benefit not required where due care and diligence is shown)—

(*a*) subsection (2), and

(*b*) the words in subsection (2A) from"unless it is shown" to the end of that subsection.

(7) Where the Secretary of State certifies that it appears to him—

(*a*) that an overpayment or any specified part thereof is not materially due to the arrangement to receive benefit provided for in this regulation; or

(*b*) that in the particular circumstances of the case it would be inappropriate to apply the provisions of paragraph (6) to an overpayment or any specified part thereof,

the question whether repayment of the overpayment or, as the case may be, the specified part of the overpayment is required shall be determined in accordance with the said section 119 of the Social Security Act 1975(**a**) without the application of paragraph (6) of this regulation.".

Amendment of regulation 21 of the Child Benefit (Determination of Claims and Questions) Regulations 1976

3. At the end of regulation 21(1) of the Child Benefit (Determination of Claims and Questions) Regulations 1976(**b**) (modification of section 119(2) of the Social Security Act 1975) there shall be added—

"but this modification shall not have effect in a case where section 119 applies as modified by regulations under section 6(5) of the Act, as extended by section 4(4) of the Social Security Act 1980(**c**) (payment of benefit by way of crediting a bank or other account).".

Breach of the principal regulations and penalties

4.—(1) In regulation 14 of the principal regulations (breach of regulations)–

(*a*) for the reference to regulation 6(3) there is substituted a reference to regulation 6E(5); and

(*b*) for "£50" there is substituted "£200".

(2) Paragraph (1)(*b*) shall have effect only in relation to offences committed after this regulation comes into operation.

Norman Fowler,
31st August 1982. Secretary of State for Social Services.

(**a**) 1975 c. 14; section 119 was amended by section 8 of the Social Security Act 1979 (c. 18).
(**b**) S.I. 1976/962, to which there are amendments not relevant to these regulations.
(**c**) 1980 c. 30.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations, which amend the Child Benefit (Claims and Payments) Regulations 1976 ("the principal regulations"), relate to:

— payment of child benefit by way of directly crediting a bank or other account on the application of the claimant (regulation 2);

— increasing the penalty for breach of the principal regulations (regulation 4).

Regulation 2(2) inserts in the principal regulations new regulation 6AA which:

— specifies persons into whose accounts or joint accounts benefit may be credited (paragraph (1));

— provides for the manner in which applications are to be made, and requires an applicant to declare that he has read and understood the conditions applicable — so ensuring that he becomes aware of the effect that paragraph (6) would have in the event of overpayment of benefit (paragraph (2));

— makes provision for payment by crediting at intervals of 4 weeks, commencement dates, terminal payments and the termination of direct credit arrangements (paragraphs (3) to (5));

— modifies section 119 of the Social Security Act 1975 (applied to child benefit by section 8(1) of the Child Benefit Act 1975); subsections (2) and (2A) of that section provide that overpaid benefit is not recoverable where it is shown that the beneficiary and any person acting for him exercised due care and diligence to avoid overpayment; paragraph (6) removes this restriction on recovery where the overpayment occurred in the course of direct crediting under the regulation following a declaration made in accordance with paragraph (2); section 119 applies, however, in its unmodified form where the Secretary of State issues a certificate to that effect (paragraph (7)).

Regulations 2(1) and 3 make amendments, consequent on the provisions of new regulation 6AA, to regulation 6A of the principal regulations and regulation 21 of the Child Benefit (Determination of Claims and Questions) Regulations 1976.

Regulation 4 increases the maximum fine that can be imposed for an offence against provisions of the principal regulations from £50 to £200.

The Report of the Social Security Advisory Committee, dated 2nd June on the draft of these Regulations referred to them, together with a statement showing why the Regulations give effect to the Committee's recommendations only in part is contained in Command Paper (Cmnd. 8656) published by Her Majesty's Stationery Office.

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