1976 No. 224

SOCIAL SECURITY

The Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1976

Made . . . . . 3*rd August* 1976
Coming into operation . . . 8*th August* 1976

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SCHEDULE—Benefits under the Social Security Act, claims for which may be interchanged with a claim to child benefit

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 8(1) and (3) to (5), 9(1)(*b*), 13(2) and 22(1) and (2)(*b*) of the Child Benefit (Northern Ireland) Order 1975(a), and of all other powers enabling it in that behalf, hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1976 and shall come into operation on 8th August 1976.

(2) In these regulations—

"the Order" means the Child Benefit (Northern Ireland) Order 1975;

"benefit" means child benefit under the Order;

"claim" means a claim to benefit and "claiming" shall be construed accordingly;

"determining authority" means, as the case may require, an insurance officer, a local tribunal, a National Insurance Commissioner or a Tribunal of 2 or 3 National Insurance Commissioners constituted in accordance with regulation 5(4) of the Child Benefit (Determination of Claims and Questions) Regulations (Northern Ireland) 1976(b);

"increase" means an increase in the weekly rate of benefit under regulation 2(2) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations (Northern Ireland) 1976(c);

(a) S.I. 1975/1504 (N.I. 16)
(b) S.R. 1976 No. 225
(c) S.R. 1976 No. 223

"instrument of payment" means a serial order or any other instrument whatsoever which is intended to enable a person to obtain payment of benefit;

"serial order" means one of a series of orders for the payment of sums on account of benefit which is or has been contained in a book of such orders.

(3) A separate claim shall be required for an increase.

PART II

CLAIMS

Manner in which claims are to be made

2.—(1) Every claim shall be made in writing to the Department on a form approved by the Department or in such other manner, being in writing, as the Department may, in its discretion, accept as sufficient in the circumstances of any particular case or class of cases, and shall be delivered or sent to an office of the Department.

(2) The date on which a claim is made shall be the date on which it is received in an office of the Department (hereafter in this paragraph referred to as "the relevant date"); so however that if the Department is aware that a claim which has been sent by post has not been delivered in the ordinary course of post it may treat the claim as having been made on a date earlier than the relevant date, being, whichever is the later, the date on which the claim would have been made had it been delivered in the ordinary course of post or a date thirteen weeks before the relevant date.

(3) Forms of claim shall be supplied without charge by the Department or by such persons as the Department may appoint or authorise for that purpose.

(4) If a claim on the form approved is defective at the date when it is received at an office of the Department or has been made otherwise than on the form approved for the time being, the Department may, in its discretion, refer the claim to the person making it or, as the case may be, supply him with the approved form, and if the form is returned properly completed within one month from the date on which it is so referred or the form so supplied, the Department shall treat the claim as if it had been duly made in the first instance.

(5) A person who has made a claim may amend his claim at any time before a determination has been made on it by a notice in writing delivered or sent to an office of the Department, and any claim so amended may be treated as if it had been made as so amended in the first instance.

(6) A person who has made a claim may withdraw it at any time before a determination has been made on it by a notice in writing delivered or sent to an office of the Department and the said notice shall have effect when it is received in the Department.

(7) Any reference in the Order or in regulations to the date on which a claim is made shall, in the case of a claim which is treated—

(*a*) as having been made on a date earlier than the relevant date under paragraph (2), be construed as a reference to that earlier date; and

(*b*) as if it had been duly made in the first instance under paragraph (4) or (5), be construed as a reference to the date on which it was first received in an office of the Department.

Information in support of claim

3.—(1) Every person making a claim shall furnish such certificates, documents, information and evidence in connection with the claim as may be required by the Department and, if reasonably so required, shall for that purpose attend at such office of the Department or other place as the Department may direct.

(2) Where, in the case of a husband and wife residing together, a claim is made by the husband and not by the wife, the Department may require the husband to furnish it with a written statement, signed by the wife, that she does not wish to make a claim.

Advance claims and awards

4.—(1) If on the date on which a claim is made by a person in respect of a child (being a date after 3rd April 1977) that person does not satisfy the requirements for entitlement to benefit in respect of that child but the determining authority is of the opinion that that person is likely to satisfy those requirements for a period beginning with a day (hereafter in this regulation referred to as "the relevant day") not more than fifty-six days after the date on which the claim is made, then that determining authority may—

(*a*) treat the claim as if made for a period beginning with the relevant day; and

(*b*) award benefit accordingly, subject to the condition that the person satisfies the requirements for entitlement when benefit becomes payable under the award.

(2) An award under paragraph (1)(*b*) may be reviewed by the determining authority if the requirements for entitlement are found not to have been satisfied on the relevant day.

Interchange with claims for benefit under the Social Security Act

5.—(1) Where it appears that a person who in accordance with these regulations has claimed child benefit in respect of a child may be entitled alternatively or in addition to any benefit specified in the Schedule in respect of the same child, the Department may, in its discretion, treat the claim to child benefit as a claim by that person for the benefit in question specified in the said Schedule.

(2) Where it appears that a person who in accordance with regulations made under the Social Security Act has claimed any benefit specified in the said Schedule in respect of a child may be entitled alternatively or in addition to child benefit in respect of the same child, the Department may, in its discretion, treat the claim for the benefit in question as a claim by that person to child benefit.

PART III

PAYMENTS

Time and manner of payment of benefit

6.—(1) Benefit for any week shall be payable on the Monday or Tuesday of that week (as the Department may in its discretion in any case determine) by means of a serial order, unless in any particular case or class of cases the Department in its discretion makes other arrangements for payment, including payment in arrear.

(2) The Department shall take steps to notify persons to whom benefit is payable of the arrangements it has made for payment of benefit so far as those arrangements affect such persons.

(3) Instruments of payment and books of serial orders issued by the Department shall remain its property; and any person having such an instrument of payment or book of serial orders shall, on ceasing to be entitled to the benefit to which such instrument or book relates, or when so required by the Department, deliver the said instrument or book to the Department or to such person as it may direct.

Further information and notification of change of circumstances

7. Every person claiming benefit, or to whom benefit has been awarded, or to whom benefit is payable, shall furnish in such manner and at such times as the Department may determine such certificates and other documents and such information of facts affecting the person's right to benefit or, as the case may be, to its receipt, as the Department may, in its discretion, require (either as a condition on which any sum or sums shall be payable or otherwise) and in particular shall notify the Department in writing of any change of circumstances which he might reasonably be expected to know might affect the right to benefit, or to its receipt, as soon as reasonably practicable after the occurrence thereof.

Extinguishment of right to payment of sums on account of benefit

8.—(1) Subject to paragraph (2), the right to payment of any sum on account of benefit shall be extinguished where payment thereof is not obtained within the period of twelve months from the date on which the right is to be treated as having arisen; and for the purposes of this regulation the right shall be treated as having arisen—

(*a*) in relation to any such sum contained in an instrument of payment which has been given or sent for the purpose of making payment thereof to the payee or to a paying office for collection by him (whether or not received or collected, as the case may be) and notwithstanding that that sum is greater or less than the sum to which the payee has the right to payment—

(i) on the date on the said instrument of payment; or

(ii) if a further instrument of payment has been so given or sent as a replacement for an instrument of payment previously given or sent, on the date on the last such instrument of payment;

(*b*) in relation to any such sum to which sub-paragraph (*a*) does not apply, but where notice is given (whether orally or in writing) or is sent that the sum contained in the notice is available for collection and notwithstanding that that sum is greater or less than the sum to which the payee has the right to payment—

(i) if written notice is sent through the post, on the date on which it would be delivered in the ordinary course of post; and

(ii) in any other case, on the date of the notice,

and if in any case more than one such notice is given or sent, on the date determined by reference to the first such notice;

(*c*) in relation to any such sum to which neither sub-paragraph (*a*) nor sub-paragraph (*b*) applies, on such date as the Department, in its discretion, determines.

(2) Where a question arises whether the right to payment of any sum on account of benefit has been extinguished by the operation of this regulation and the determining authority is satisfied that—

(*a*) after the expiration of the said period of twelve months the Department has received written notice requesting payment of that sum; and

(*b*) throughout a period commencing within the said period of twelve months and continuing up to the date on which the said notice was given there was good cause for not giving that notice,

the said period of twelve months shall be extended to the date on which the determining authority decides that question and for the purposes of the operation of this regulation thereafter the right to payment of that sum shall, notwithstanding the provisions of paragraph (1), be treated as having arisen on that date.

(3) In this regulation—

"payee" means a person to whom sums on account of benefit are payable; and

"paying office" means such place as the Department may designate for the payment of benefit.

PART IV

MISCELLANEOUS PROVISIONS

Modification of Article 8(3) of the Order

9. A person shall not be disentitled to benefit in respect of a child for any week by virtue of the provisions of Article 8(3) of the Order (except where regulations otherwise provide, no person to be entitled to benefit for any week on a claim made by him after that week if benefit in respect of the same child has already been paid for that week to another person, whether or not that other person was entitled to it) if in respect of that week—

(*a*) the determining authority has decided that the benefit that has already been paid in respect of that child is required to be repaid and, where that determining authority is one from whose decision an appeal lies, the time for appealing has expired and no appeal has been made; or

(*b*) the benefit already paid to the other person has been voluntarily repaid to or recovered by the Department.

Persons unable to act

10.—(1) In the case of any person to whom benefit is payable or who is alleged to be entitled to benefit, or by whom or on whose behalf a claim has been made, if he is for the time being unable to act and no committee, guardian or receiver has been appointed with power to claim or, as the case may be, to receive benefit on his behalf, the Department may, upon written application made to it by a person over the age of eighteen, appoint that person to exercise, on behalf of the person who is unable to act, any right to which the latter may be entitled under the Order and to receive and deal on his behalf with any sums payable to him.

(2) Where the Department has made an appointment under paragraph (1)—

(*a*) it may at any time in its discretion revoke any such appointment;

(*b*) the person appointed may resign his office after having given one month's notice in writing to the Department of his intention to do so;

(*c*) any such appointment shall terminate when the Department is notified that a committee, guardian or receiver has been appointed.

(3) Anything required by these regulations to be done by or to any such person as aforesaid who is for the time being unable to act may be done by or to the committee, guardian or receiver, if any, or by or to the person appointed under this regulation to act on his behalf, and the receipt of any person appointed under this regulation shall be a good discharge to the Department for any sum paid.

Payment to a person under age eighteen

11. Where a person who is awarded benefit is under the age of eighteen, his signature on any instrument of payment shall be a sufficient discharge to the Department for any sum paid under such instrument.

Payments on death

12.—(1) On the death of a person who has made a claim or who is alleged to have been entitled to benefit, the Department may appoint such person as it may think fit to proceed with or to make the claim; and the provisions of these regulations shall apply, subject to the necessary modifications, to any such claim.

(2) Subject to the provisions of paragraph (4), any sum payable by way of benefit which is payable under an award on a claim proceeded with or made under paragraph (1) may be paid or distributed by the Department to or amongst persons over the age of sixteen claiming as personal representatives, legatees, next of kin, or creditors of the deceased (or, where the deceased was illegitimate, to or amongst other persons over the age of sixteen), and the provisions of regulation 8 shall apply to any such payment or distribution; and—

(*a*) the receipt of any such person shall be a good discharge to the Department for any sum so paid; and

(*b*) where the Department is satisfied that any such sum or part thereof is needed for the benefit of any person under the age of sixteen, it may obtain a good discharge therefor by paying the sum or part thereof to a person over that age (who need not be a person specified in this paragraph) who satisfies the Department that he will apply the sum so paid for the benefit of the person under the age of sixteen.

(3) Subject as aforesaid, any sum payable by way of benefit to the deceased, payment of which he had not obtained at the date of his death, may, unless the right thereto was already extinguished at that date, be paid or distributed to or amongst such persons as are mentioned in paragraph (2), and the provisions of regulation 8 shall apply to any such payment or distribution; so however that, for the purpose of regulation 8, the period of twelve months shall be calculated from the date on which the right to payment of any sum is treated as having arisen in relation to any such person and not from the date on which that right is treated as having arisen in relation to the deceased.

(4) Paragraphs (2) and (3) shall not apply in any case unless written application for the payment of any such sum is made to the Department within twelve months from the date of the deceased's death or within such longer period as the Department may allow in any particular case.

(5) The Department may dispense with strict proof of the title of any person claiming in accordance with the provisions of this regulation.

(6) In paragraph (2) "next of kin" means the persons who would take beneficially on an intestacy under the provisions of Part II of the Administration of Estates Act (Northern Ireland) 1955(d).

Payment to a third party and to a spouse as alternative payee

13.—(1) In any case where—

(*a*) it appears to the Department to be necessary for protecting the interests of a person entitled to benefit, or of a child in respect of whom benefit is payable, that arrangements should be made whereby that benefit should be paid to another person on behalf of the person entitled to it; or

(*b*) a person entitled to benefit in respect of a child requests the Department to make that benefit payable to another person on his behalf; or

(*c*) such a person as is mentioned in regulation 6 of the Child Benefit (Residence and Persons Abroad) Regulations (Northern Ireland) 1976(e) is in fact absent from Northern Ireland,

the Department may, in its discretion, make arrangements whereby the benefit payable to the person entitled to it may be paid to another person on his behalf.

(2) Without prejudice to paragraph (1), where one of two spouses residing together is entitled to benefit the Department may make arrangements whereby that benefit, as well as being payable to the spouse entitled to it, may, in the alternative, be paid to the other spouse on behalf of the spouse entitled to it.

Breach of regulations

14. Any person who contravenes a requirement of regulation 6(3) or 7 shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £50.

PART V

TRANSITIONAL PROVISIONS

Definitions etc. for the purposes of this Part

15.—(1) In this Part—

"the Act of 1966" means the Family Allowances Act (Northern Ireland) 1966(f);

"family allowances" means an allowance or allowances under the Act of 1966; and

"the transitional period" means the period beginning with 8th August 1976 and ending immediately before the appointed day.

(2) Regulations 16, 18 and 19 shall not apply to an increase.

(d) 1955 c. 24 (N.I.) (e) S.R. 1976 No. 227 (f) 1966 c. 8 (N.I.)

Treating a claim for family allowances as a claim to benefit and a claim to benefit as a claim for family allowances or to benefit under Article 18 of the Order

16. If the Department in its discretion so determines—

(*a*) a claim made in the transitional period may, if it is for family allowances, additionally be treated as a claim to benefit and if it is to benefit, additionally be treated as a claim to benefit under Article 18 of the Order (interim benefit for unmarried or separated parents with children); and

(*b*) a claim made in the transitional period or not more than six months after the end of that period may, if it is a claim to benefit, additionally be treated as a claim for family allowances.

Provisions relating to claims to benefit made in the transitional period

17.—(1) A claim made in the transitional period (not being a claim to which regulation 18 applies) shall be treated as a claim made for a period beginning with the appointed day; so however that if a claim is made on or after 8th February 1977 and the determining authority is not satisfied that the requirements for entitlement to benefit are likely to be satisfied on the appointed day, but is of the opinion that those requirements are likely to be satisfied on a later day not more than fifty-six days after the date on which the claim is made, the claim may be treated as a claim made for a period beginning with that later day.

(2) Where the determining authority determines a claim made in the transitional period on a day before that as from which it is satisfied that benefit is payable on the claim—

(*a*) it shall not award benefit on the claim—

(i) if the claim was made before 8th February 1977, unless it is satisfied that the requirements for entitlement to benefit are likely to be satisfied on the appointed day; or

(ii) if the claim was made on or after 8th February 1977, unless it is satisfied that the requirements for entitlement to benefit are likely to be satisfied within fifty-six days after the date on which the claim was made; and

(*b*) a decision awarding benefit—

(i) shall be subject to the condition that the requirements for entitlement to benefit are satisfied when benefit becomes payable under the award; and

(ii) may be reviewed if those requirements are found not then to have been satisfied.

Persons entitled to family allowances in the transitional period who are to be treated as having made a claim to benefit

18. If in the transitional period—

(*a*) a child is included in the family of a person for the purposes of the Act of 1966 and that person is entitled to family allowances; and

(*b*) the Department is satisfied that the state of affairs described in paragraph (*a*) is likely to exist immediately before the appointed day,

then if the Department in its discretion so determines that person shall be treated as having made a claim to benefit in respect of that child.

Awards of benefit to persons who are treated as having claimed benefit under regulation 18

19.—(1) Where under regulation 18 a person is treated as having claimed benefit in respect of a child, then unless before the appointed day the Department in accordance with Article 9(3) of the Order reconsiders the exercise of its discretion and decides that that person shall not be treated as having claimed benefit in respect of that child, the decision awarding that person family allowances for a family which includes that child shall be treated as a decision, given on the date on which the Department determines that that person is to be treated as having claimed benefit in respect of that child, awarding that person benefit in respect of that child for a period beginning with the appointed day.

(2) A decision under paragraph (1) awarding a person benefit shall be subject to the condition that the requirements for entitlement to benefit are satisfied on the appointed day and if those requirements are not so satisfied that decision may be reviewed.

Continuation of certain appointments made under regulation 10 *of the Family Allowances (Claims and Payments) Regulations (Northern Ireland)* 1971

20. Where under regulation 10 no person has been appointed to act for another person who is unable to act, but under regulation 10 of the Family Allowances (Claims and Payments) Regulations (Northern Ireland) 1971(g) a person has been appointed to act for that other person and the appointment is effective at any time in the transitional period, the appointment under regulation 10 of the 1971 regulations shall, for the purposes of benefit, be treated as an appointment made under regulation 10 of these regulations.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 3rd August 1976.

(L.S.)

C. G. Oakes
Senior Assistant Secretary

(g) S.R. & O. (N.I.) 1971 No. 103 (p. 527)

SCHEDULE Regulation 5

Benefits under the Social Security Act, claims for which may be interchanged with a claim to child benefit

Child's special allowance

Guardian's allowance

Maternity benefit claimed after confinement

Industrial death benefit by virtue of section 70

Increase for child dependant by virtue of sections 41, 49, 64 and 76, or regulations made under section 39(4)

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport.)

These regulations contain provisions relating to claims to and payment of child benefit under the Child Benefit (Northern Ireland) Order 1975.

Part I of the regulations relates to their citation, commencement and interpretation. Part II and the Schedule contain provisions relating to claims to child benefit. Part III contains provisions relating to payment of child benefit. Part IV contains miscellaneous provisions. Part V contains transitional provisions.

The appointed day, the day on which child benefit first becomes payable, is Monday 4th April 1977 (see the Child Benefit (1975 Order) (Commencement No. 2) Order (Northern Ireland) 1976 (S.R. 1976 No. 221 (C. 12)).