1976 No. 226

SOCIAL SECURITY

The Child Benefit (General) Regulations (Northern Ireland) 1976

Made . . . . . 3rd *August* 1976

Coming into operation . . . 8th *August* 1976

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The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(2), (3), (5) and (6), 4(2), 5(3)(*c*), (4) and (5), 11(*a*), 19(5) and (6), 22(1) and (2)(*c*) of, and paragraphs 1 to 4 of Schedule 1 and paragraph 6 of Schedule 2 to, 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 (General) 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;

"the Taxes Act" means the Income and Corporation Taxes Act 1970(b);

"benefit" means child benefit under the Order;

"full-time education" means full-time education by attendance at a recognised educational establishment.

(3) References in these regulations to any condition being satisfied or any facts existing in a week shall, unless they relate to paragraph 1 of Schedule 1 to the Order (children in detention, care, etc.) be construed as references to the condition being satisfied or the facts existing at the beginning of that week.

Special provisions as to contributions and expenditure in respect of a child

2.—(1) Where two or more persons are contributing to the cost of providing for the same child and the aggregate weekly amount of their contributions is, but the weekly amount of each of their individual contributions is not, of an amount not less than the weekly rate of benefit which would be payable in respect of that child had the aggregate weekly amount of their contributions been contributed by one only of them, the aggregate weekly amount of their contributions shall be treated as having been made by that one of them as they shall by agreement nominate in writing or, in default of such agreement, by that one of them as the Department may, in its discretion, determine.

(2) Where pursuant to a nomination or determination under paragraph (1) a person is awarded benefit in respect of a child, the nomination or determination shall cease to have effect in the week following that in which benefit was awarded to that person; and accordingly that person shall himself be required to satisfy the requirement in Article 5(1)(*b*) of the Order, namely, that he is contributing to the cost of providing for the child at a weekly rate which is not less than the weekly rate of benefit payable in respect of the child.

(3) Where spouses are residing together a contribution made or expenditure incurred by one of them in respect of a child shall if they so agree, or in default of such agreement if the Department in its discretion so determines, be treated as made or incurred by the other.

(a) S.I. 1975/1504 (N.I. 16) (b) 1970 c. 10

Child in residential accommodation in prescribed circumstances

3. The prescribed circumstances for the purposes of Article 5(3)(*c*) of the Order (subject to Article 5(4) a day of absence of a child from a person to be disregarded for the purposes of Article 5(2) if it is due solely to the child's being, in prescribed circumstances, in residential accommodation pursuant to arrangements made under Article 7 of the Health and Personal Social Services (Northern Ireland) Order 1972(c)) are any circumstances in which a child is in residential accommodation pursuant to arrangements made under the said Article 7.

Days of absence to be disregarded in determining whether a child is living with a person

4.—(1) The prescribed number of days under Article 5(4) of the Order (number of days that may be disregarded by virtue of Article 5(3)(*b*) or (*c*) in the case of any child not to exceed such number as may be prescribed unless the person claiming to be responsible for the child regularly incurs expenditure in respect of him) is eighty-four consecutive days calculated in accordance with paragraph (2).

(2) Two or more distinct relevant periods separated by one or more intervals each not exceeding twenty-eight days, shall be treated as a continuous period equal in duration to the total of such distinct periods and ending on the last day of the latter or last of such periods.

(3) In paragraph (2) "relevant periods" means periods to which Article 5(3)(*b*) of the Order (day of absence of a child from a person due solely to the child's undergoing medical or other treatment as an in-patient in a hospital or similar institution to be disregarded in determining whether that child is living with that person) applies; also periods to which Article 5(3)(*c*) of the Order (subject to Article 5(4) a day of absence of a child from a person to be disregarded for the purposes of Article 5(2) if it is due solely to the child's being, in prescribed circumstances, in residential accommodation pursuant to arrangements made under Article 7 of the Health and Personal Social Services (Northern Ireland) Order 1972) applies.

Circumstances in which a person is to be treated as receiving full-time education

5. A person shall be treated for the purposes of the Order as receiving full-time education if he is receiving primary or secondary education in Northern Ireland, otherwise than at school, under special arrangements made under Article 6(2) of the Education and Libraries (Northern Ireland) Order 1972(d).

Interruption of full-time education

6. In determining for the purposes of Article 4(1)(*b*) of the Order (persons aged sixteen but under nineteen who are to be treated as children) whether a person is receiving full-time education, no account shall be taken of a period (whether beginning before or after the person concerned attains age sixteen) of up to six months of any interruption to the extent to which it is accepted that the interruption is attributable to a cause which is reasonable in the particular circumstances of the case; and where the interruption or its continuance is attributable to the illness or disability of mind or body of the person concerned, the period of six months may be extended for such further period as is accepted as being reasonable in the particular circumstances of the case.

(c) S.I. 1972/1265 (N.I. 14) (d) S.I. 1972/1263 (N.I. 12)

Employed trainees

7.—(1) Where but for the provisions of paragraph 2(1) of Schedule 1 to the Order (a person not to be entitled to benefit by virtue of Article 4(1)(*b*) in respect of a child if the education in question is received by that child by virtue of his employment or of any office held by him) a person would be entitled to benefit in respect of a child, that child shall not for any week be treated as receiving education by virtue of his employment or of any office held by him if that week begins in what has been or is likely to be a continuous period of not less than six months in respect of which that child receives no financial support by virtue of his employment or any office held by him.

(2) For the purposes of paragraph (1), any reimbursement of the cost of books, equipment, tuition, examination fees, travelling expenses and contributions under the Social Security Act is not to be treated as the receipt by the child of financial support.

Persons exempt from tax

8.—(1) For the purposes of paragraph 4 of Schedule 1 to the Order (except where regulations otherwise provide no person to be entitled to benefit in respect of a child if either that person or such other person as may be prescribed is exempt from tax under such provisions as may be prescribed) a person and, if that person is residing with his spouse, his spouse, shall not be entitled to benefit in respect of a child for any week in respect of which he or, where they are residing together, his spouse receives earnings or other emoluments which are exempted from United Kingdom income tax under—

(*a*) section 367 or sections 372 to 374 of the Taxes Act (exemption from income tax, etc. of visiting forces, staffs of allied headquarters and of Commonwealth and foreign representatives);

(*b*) section 2 of, and Article 34 or 37 of Schedule 1 to, the Diplomatic Privileges Act 1964(**e**), or section 1 of, and Article 49 or 66 of Schedule 1 to, the Consular Relations Act 1968(**f**) (exemption from income tax, etc. of members of diplomatic missions and their staffs etc. and of certain consular officers, etc.);

(*c*) section 4 of the Arbitration (International Investment Disputes) Act 1966(**g**) (status, immunities and privileges conferred by the Convention on the settlement of investment disputes between States and nationals of other States);

(*d*) an Order in Council, statutory notice, or regulations, made or given under, or continuing to have effect by virtue of, any of the following enactments—

(i) the Bretton Woods Agreements Act 1945(**h**), section 3 (status, immunities and privileges of the International Monetary Fund, the International Bank for Reconstruction and Development and governors, executive directors, alternates, officers and employees of the Fund and Bank);

(ii) the Taxes Act, section 497 (relief from double taxation);

(iii) the Consular Relations Act 1968, section 3(1) (additional privileges and immunities accorded as a result of agreement) and section 12 (privileges and immunities in connection with Commonwealth and Irish establishments);

(**e**) 1964 c. 81
(**f**) 1968 c. 18
(**g**) 1966 c. 41
(**h**) 1945 c. 19

(iv) the International Finance Corporation Act 1955(i), section 3 (status, immunities and privileges of the International Finance Corporation, its governors, directors, alternates, officers and employees);

(v) the International Development Association Act 1960(j), section 3 (status, immunities and privileges of the Association, its governors, directors, alternates, officers and employees);

(vi) the Diplomatic Privileges Act 1964, section 2(6) (certain privileges and immunities admitted by, or certain additional privileges and immunities granted by, the receiving State);

(vii) the International Organisations Act 1968(k), sections 1, 2, 5, 6 and 12(5) and paragraphs 9, 15, 21 and 23 of Schedule 1 (privileges and immunities of certain international organisations and their officers, etc.);

(viii) the European Communities Act 1972(l), section 2(2) (giving effect to, inter alia, the Protocol on the Privileges and Immunities of the European Communities—Articles 12 to 15, 20 and 21).

(2) A person shall not be disentitled to benefit by virtue of the provisions of paragraph (1) for any week beginning within a tax year if in relation to the immediately preceding tax year that person proves that the amount of his earnings or other emoluments exempted from United Kingdom income tax under any of the provisions referred to in paragraph (1) was less than his total income as defined in section 528 of the Taxes Act; and where in the said immediately preceding tax year that person was married to and residing with the spouse (if any) referred to in paragraph (1), this paragraph shall have effect as if for references to that person's earnings or other emoluments and total income there were substituted references to the aggregate of the earnings or other emoluments and total income of that person and his said spouse.

(3) For the purposes of this regulation "tax year" means the twelve months beginning with 6th April in any year.

Married child

9. A person shall not be disentitled to benefit in respect of a married child by virtue of paragraph 3 of Schedule 1 to the Order (unless regulations otherwise provide, no person to be entitled to benefit in respect of a married child) if—

(*a*) that person is not the spouse of that child; and

(*b*) that child either is not residing with his spouse or, if he is, the spouse is receiving full-time education.

Circumstances in which persons are not to be treated as having ceased to reside together

10.—(1) Subject to paragraph (2) and regulation 20, where a person is married he and his spouse shall not be treated as having ceased to reside together by reason of any absence from one another which is not likely to be permanent; and if in the week in which benefit is claimed spouses—

(*a*) are not separated under an order of a court of competent jurisdiction or deed of separation; or

(i) 1955 c. 5
(j) 1960 c. 35
(k) 1968 c. 48
(l) 1972 c. 68

(*b*) have not been absent from one another for at least ninety-one consecutive days,

their absence from one another shall be regarded as not likely to be permanent before either the requirement in sub-paragraph (*a*) or the requirement in sub-paragraph (*b*) is satisfied.

(2) Spouses shall not be treated as having ceased to reside together by reason only of the fact that either of them is, or they both are, undergoing medical or other treatment as an in-patient in a hospital or similar institution.

(3) Where two persons are parents of a child but not husband and wife, they shall not be treated as having ceased to reside together by reason of any temporary absence from one another.

Polygamous marriages

11.—(1) A polygamous marriage shall, for the purposes of Part II of the Order and any regulations thereunder, be treated as having the same consequences as a monogamous marriage for any day, but only for any day, throughout which the polygamous marriage is in fact monogamous.

(2) In paragraph (1)—

(*a*) "polygamous marriage" means a marriage celebrated under a law which, as it applies to the particular ceremony and to the parties thereto, permits polygamy;

(*b*) "monogamous marriage" means a marriage celebrated under a law which does not permit polygamy;

(*c*) a polygamous marriage is referred to as being in fact monogamous when neither party to it has any spouse additional to the other; and

(*d*) the day on which a polygamous marriage is contracted, or on which it terminates for any reason, shall be treated as a day throughout which that marriage was in fact monogamous if at all times on that day after it was contracted, or as the case may be, before it terminated, it was in fact monogamous.

Prescribed manner of making an election under Schedule 2 to the Order

12.—(1) An election under Schedule 2 to the Order (any election under that Schedule to be made in the prescribed manner) shall be made by giving notice in writing to the Department on a form approved by the Department or in such other manner being in writing as it may accept as sufficient in the circumstances of any particular case or class of cases.

(2) An election shall not be effective to confer entitlement to benefit in respect of a child for any week earlier than the week following that in which it is made if the earlier week is one in respect of which benefit has been paid in respect of that child and has not been required to be repaid or voluntarily repaid or recovered.

(3) Any election as above may be superseded by another subsequent election made in accordance with the foregoing provisions of this regulation.

Modification of priority provisions in Schedule 2 to the Order

13.—(1) Where a person has claimed benefit in respect of a child in respect of whom he would be entitled to benefit but for the fact that under the provisions of Schedule 2 to the Order (priority between persons entitled) some other person is entitled to benefit in respect of that child in priority to him, if that other person gives notice in writing to the Department that he does not wish to have priority of title to benefit in respect of that child the provisions of the said Schedule 2 shall, subject to paragraph (2), have effect with the modification that that other person does not have such priority.

(2) A notice under paragraph (1) shall—

(*a*) subject to sub-paragraph (*b*), have effect unless and until the said other person, subsequent to the giving of the notice, makes a further claim to benefit in respect of the said child; but

(*b*) not be effective as respects any week in respect of which benefit in respect of the said child is paid to the said other person or to a person on his behalf.

Set-off of benefit against arrears of a non-contributory invalidity pension and of a non-contributory invalidity pension against arrears of benefit

14.—(1) Benefit paid shall, unless it is required to be repaid, be treated as properly paid for any period for which it is not in fact payable in cases where, in consequence of a subsequent decision under the Social Security Act, the person in respect of whom it was paid is entitled to a non-contributory invalidity pension under that Act for that period; and any arrears payable by virtue of the subsequent decision for that period shall be reduced by the amount of the benefit treated as properly paid or, if that amount is equal to or greater than any such arrears, withheld.

(2) A non-contributory invalidity pension paid to a person which it is subsequently decided was not payable shall, unless it is required to be repaid, be treated as properly paid for any period for which it is not in fact payable in cases where, in consequence of a subsequent decision under the Order, another person is entitled to benefit in respect of the first mentioned person for that period; and any arrears payable by virtue of that subsequent decision for that period shall be reduced by the amount of the pension treated as properly paid or, if that amount is equal to or greater than any such arrears, withheld.

Children in detention, care, etc.

15.—(1) For the purposes of paragraph 1 of Schedule 1 to the Order (exclusion from entitlement to benefit in respect of children in detention, care, etc.) Article 2(3) of the Order (subject to any provision made by regulations, references in the Order to any condition being satisfied or any facts existing in a week to be construed as references to the condition being satisfied or the facts existing at the beginning of that week) shall have effect as if for "at the beginning of that week" there were substituted "throughout any day in that week".

(2) For the purposes of sub-paragraphs (*a*), (*b*), (*c*) and (*d*) of paragraph 1 of the said Schedule (child undergoing imprisonment or detention in legal custody) a child shall not be regarded as undergoing imprisonment or detention in legal custody in any week unless in connection with a charge brought or intended to be brought against him in criminal proceedings at the conclusion of those proceedings or, in the case of default of payment of a sum adjudged to be paid on conviction, in respect of such default, a court imposes a penalty upon him; and for those purposes—

(*a*) "court" means any court in the United Kingdom, the Channel Islands or the Isle of Man; and

(*b*) "penalty" means, in the case of any court in Northern Ireland, a sentence of imprisonment, borstal training or detention under section 73, 74, 95, 97, 101, 108, 140 or 143(6) of, or paragraph 11 of Schedule 5 to, the Children and Young Persons Act (Northern Ireland) 1968(**m**), or an order for detention in a remand centre or young offenders centre and, in the case of any court not in Northern Ireland, any comparable sentence or order.

(3) The said sub-paragraphs (*a*), (*b*), (*c*) and (*d*) of paragraph 1 shall not apply to a child in respect of any week in which that child is liable to be detained in a hospital or similar institution in Northern Ireland as a person suffering from mental disorder unless, subsequent to the imposition of a penalty—

(*a*) he has undergone detention in a prison, a training school, a remand home, a borstal institution, a remand centre, a young offenders centre or, if not in Northern Ireland, any comparable place;

(*b*) he was removed to the hospital or similar institution while still liable to be detained as a result of the said penalty and, in the case of a person who is liable to be detained in the hospital or similar institution by virtue of any provisions of the Mental Health Act (Northern Ireland) 1961(**n**), a direction restricting his discharge has been given under that Act and is still in force,

and in this paragraph—

(i) "hospital or similar institution" means a place (not being a prison, a training school, a remand home, a borstal institution, a remand centre, a young offenders centre or, if not in Northern Ireland, any comparable place and not being at or in any such place) in which persons suffering from mental disorder are or may be received for care or treatment;

(ii) "mental disorder" shall be construed as including references to any mental disorder within the meaning of the said Act of 1961; and

(iii) a person who is liable to be detained by virtue of any provision of the said Act of 1961 shall be treated as if a direction restricting his discharge had been given under that Act if he is to be so treated for the purposes of that Act.

(4) Where, as respects a child in relation to whom each of the conditions specified in paragraph (3)(*a*) and (*b*) is satisfied, a certificate given by or on behalf of the Secretary of State shows the earliest date on which that child would have been expected to be discharged from detention pursuant to the said penalty if he had not been transferred to a hospital or similar institution, the said conditions shall be deemed not to be satisfied in relation to that child as from the day next following that date.

(5) For the purposes of paragraph 1(*f*) of Schedule 1 to the Order (child in care of the Department or subject to a parental rights order in such circumstances as may be prescribed) the prescribed circumstances are that the child is—

(*a*) received into care under section 103 of the Children and Young Persons Act (Northern Ireland) 1968;

(**m**) 1968 c. 34 (N.I.) (**n**) 1961 c. 15 (N.I.)

(*b*) the subject of a parental rights order made by virtue of any of the provisions of section 104(1) of that Act of 1968;

(*c*) committed to the care of the Department in pursuance of a fit person order made under section 74(1), 95(1), 97(2), 101(1), 143(6) or 144 of that Act of 1968 or an order made under paragraph 7 of Schedule 9 to the Education and Libraries (Northern Ireland) Order 1972.

(6) A person shall not be disentitled to benefit in respect of a child for any week by virtue of the fact that sub-paragraph (*a*), (*b*), (*c*), (*d*), (*e*) or (*f*) of paragraph 1 of Schedule 1 to the Order (except where regulations otherwise provide, no person to be entitled to benefit in respect of a child for any week if in that week the child is in detention, care, etc.) applies to that child—

(*a*) unless that week is the 9th or a subsequent week in a series of consecutive weeks in which any of those sub-paragraphs has applied to that child; or

(*b*) notwithstanding that that week is the 9th or a subsequent week in a series of consecutive weeks in which any of those sub-paragraphs has applied to that child, if—

(i) that week is one throughout which that person has had the child living with him; or

(ii) that week is one during which that person has had the child living with him throughout at least one day, being a day which immediately follows or precedes a week throughout which that person has had the child living with him; or

(iii) as at that week that person establishes that he is a person with whom the child, while the said sub-paragraph (*a*), (*b*), (*c*), (*d*), (*e*) or (*f*) applies to him, ordinarily lives throughout at least one day in each week.

(7) For the purposes of paragraph (6), a person shall not be regarded as having a child living with him throughout any day or week unless he actually has that child living with him throughout that day or week.

(8) For any week in which a child is boarded-out by the Department in the home of any person in accordance with the provisions of the Children and Young Persons (Boarding-Out) Regulations (Northern Ireland) 1976(**o**), paragraph (6) shall not apply to that person in relation to that child.

Right to benefit of voluntary organisations

16.—(1) Subject to the following provisions of this regulation, a voluntary organisation shall for the purposes of benefit be regarded as a person with whom a child is living, and the only person with whom that child is living, for any week in which that child is—

(*a*) living in premises which are provided or managed by the voluntary organisation, being premises which are required to be registered with a Government department or local authority or which are otherwise regulated under or by virtue of any enactment relating to Northern Ireland; or

(*b*) boarded-out by the voluntary organisation in the home of any person in accordance with the provisions of the Children and Young Persons (Boarding-Out) Regulations (Northern Ireland) 1976.

(**o**) S.R. 1976 No. 19

(2) A voluntary organisation shall not be regarded as a person with whom a child is living in any week unless in that week the child is actually living with the voluntary organisation in accordance with the provisions of paragraph (1); so however that a voluntary organisation shall not be regarded as having ceased to have a child living with it by reason only of any temporary absence of that child which—

(*a*) if the child is undergoing medical or other treatment as an in-patient in a hospital, does not last for more than eighty-four days; or

(*b*) if the child is temporarily absent for any other reason, does not last for more than fifty-six days.

(3) In calculating for the purposes of paragraph (2)(*a*) whether a child has been temporarily absent for not more than eighty-four days, two or more distinct periods of temporary absence separated by one or more intervals each not exceeding twenty-eight days shall be treated as a continuous period equal in duration to the total of such distinct periods and ending on the last day of the latter or last of such periods.

(4) A voluntary organisation shall not be regarded as a person with whom a child is living in any week if in that week—

(*a*) that child is in residential accommodation pursuant to arrangements made under Article 7 of the Health and Personal Social Services (Northern Ireland) Order 1972(p); or

(*b*) paragraph 1 of Schedule 1 to the Order (exclusion from entitlement to benefit in respect of children in detention, care, etc.) applies to that child.

(5) Where immediately before the week in which paragraph (1) applies to a child that child was living with a person who was then entitled to benefit in respect of it, the said paragraph (1) shall, while under Article 5(2) of the Order that child would be treated as continuing to live with that person, have effect in relation to that person as if "and the only person with whom that child is living" were omitted.

(6) Article 5(1)(*b*) of the Order (person to be treated as responsible for a child in any week if he is contributing to the cost of providing for the child at a weekly rate not less than the weekly rate of benefit payable in respect of the child for that week) and regulation 15(6) shall not apply to a voluntary organisation.

PART II

TRANSITIONAL PROVISIONS

Definitions for the purposes of this Part

17. In this Part, "the Act of 1966" means the Family Allowances Act (Northern Ireland) 1966(q) and "family allowance" means an allowance under the Act of 1966.

Transitional modification of section 11 *of the Act of* 1966 *and of regulations* 12 *and* 13 *of the Family Allowances (Qualifications) Regulations (Northern Ireland)* 1970

18. Section 11 of the Act of 1966 (child not to be treated as included in any family in certain circumstances) except subsections (5) and (6) of that section shall not apply to a child for any period which does not begin before 1st February 1977; and in a case where the absence of a child from a person

(p) S.I. 1972/1265 (N.I. 14) (q) 1966 c. 8 (N.I.)

does not begin before that date and is by reason of the fact that the child, whether residing in a residential establishment or boarded-out under the Children and Young Persons Act (Northern Ireland) 1968 or otherwise, has been kept in the care of a welfare authority under the said Act of 1968, regulations 12 and 13 of the Family Allowances (Qualifications) Regulations (Northern Ireland) 1970(r) (rules for determining, inter alia, whether the absence of a child from a parent or a person other than a parent is temporary) shall have effect in relation to such an absence as if references in them to 4 weeks were references to 8 weeks.

Transitional provisions relating to apprentices under the Act of 1966

19.—(1) Where immediately before the appointed day a family allowance is payable in respect of a person who has attained the age of sixteen but is under the age of nineteen as being an apprentice within the meaning of the Act of 1966, then notwithstanding that that person does not satisfy the requirement in Article 4(1)(*b*) of the Order that he is receiving full-time education, he shall be treated as satisfying that requirement while he continues without a break to be an apprentice within the meaning of the Act of 1966; so however that the weekly rate of benefit payable in respect of him shall be the weekly rate at which family allowance was payable in respect of him immediately before the appointed day.

(2) Where in respect of a period ending immediately before the appointed day a person is entitled to a family allowance and the elder or eldest child included in the family of that person for the purposes of the Act of 1966 is an apprentice within the meaning of that Act, then for any period beginning with that day throughout which—

(*a*) that child continues to be an apprentice within the meaning of the Act of 1966; and

(*b*) that person would be entitled to benefit in respect of that child if that child satisfied the requirement in Article 4(1)(*b*) of the Order that he is receiving full-time education,

benefit to which that person may be entitled in respect of a younger child in respect of whom he was entitled to a family allowance immediately before that day shall be payable at the weekly rate appropriate to a child who is not the only, elder or eldest child in respect of whom a person is entitled to benefit.

Transitional provisions relating to circumstances in which spouses are to be treated as residing otherwise than together

20.—(1) Where immediately before the appointed day a married person is entitled to a family allowance and for the purposes of the Act of 1966 he then fell to be regarded as living otherwise than together with his spouse, while he and that spouse would continue without a break to be regarded as living otherwise than together for the purposes of the Act of 1966 they shall be treated as residing otherwise than together for the purposes of benefit.

(2) Where for the purposes of Article 18 of the Order (interim benefit for unmarried or separated parents with children) a person who was married—

(*a*) fell to be regarded as not residing with his spouse immediately before the appointed day; and

(*b*) was entitled to benefit under that Article for a period ending immediately before that day,

(r) S.R. & O. (N.I.) 1970 No. 23 (p. 167)

then while without any break that person would continue to be regarded as not residing with his spouse for the purposes of that Article he shall be treated as not residing with his spouse for the purposes of benefit.

Transitional provision relating to calculation of contributions and expenditure in respect of a child

21. Where in connection with benefit a question arises whether in relation to the week beginning with the appointed day a person is—

(*a*) contributing to the cost of providing for a child at a weekly rate which is not less than the weekly rate of benefit payable in respect of the child for that week; or

(*b*) regularly incurring expenditure in respect of a child,

and in determining that question account falls to be taken of contributions made or expenditure incurred by that person before the appointed day, that person shall be treated as having been so contributing or as so regularly incurring expenditure before the appointed day if immediately before that day—

(i) he could be treated as satisfying in respect of the child the maintenance requirements in paragraph 1 of the Schedule to the Act of 1966; or

(ii) that child was, or could have been, treated as included in his family for the purposes of the Act of 1966.

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

EXPLANATORY NOTE

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

These regulations contain miscellaneous provisions relating to the right to child benefit under the Child Benefit (Northern Ireland) Order 1975 (Part I of the regulations) and to the transition from family allowances under the Family Allowances Act (Northern Ireland) 1966 and the interim benefit under Article 18 of that Order to child benefit (Part II of the regulations).

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)).