STATUTORY INSTRUMENTS

1975 No. 1924

SOCIAL SECURITY

The Child Interim Benefit (Claims and Payments) Regulations 1975

Made - - -	*25th November* 1975
Laid before Parliament	*3rd December* 1975
Coming into Operation	*2nd January* 1976

ARRANGEMENT OF REGULATIONS

PART I
GENERAL

1. Citation, commencement and interpretation.

PART II
CLAIMS

2. Manner and time in which claims are to be made.
3. Information in support of claim.
4. Advance claims and awards.

PART III
PAYMENTS

5. Time and manner of payment of benefit.
6. Further information and notification of change of circumstances.
7. Extinguishment of right to payment of sums on account of benefit.

PART IV
MISCELLANEOUS PROVISIONS

8. Persons unable to act.
9. Payment to a person under age 18.
10. Payments on death.
11. Payment to a third party.
12. Breach of regulations.

PART V

13. Transitional provision.

The Secretary of State for Social Services, in exercise of the powers conferred upon her by sections 6(4)(*a*) to (*d*) and (5) and 11(2), as applied by section 16(11), and sections 16(5), 20(2)(*d*) and 24(2) of the Child Benefit Act 1975(**a**), and of all other powers enabling her 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 Interim Benefit (Claims and Payments) Regulations 1975 and shall come into operaton on 2nd January 1976.

(2) In these regulations, unless the context otherwise requires—

"the Act" means the Child Benefit Act 1975;

"benefit" means benefit under section 16 of the Act;

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

"the Department" means the Department of Health and Social Security;

"determining authority" means, as the case may require, the Secretary of State, a tribunal constituted under powers conferred by section 16(7) of the Act for the purpose of hearing an appeal from any decision given by the Secretary of State under the said section 16(7), or a person appointed by the Lord Chancellor after consultation with the Lord Advocate under that section for the purpose of hearing an appeal from any decision given by a tribunal;

"instrument of payment" means a serial order and 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;

"transitional period" means the period commencing on 2nd January 1976 and ending immediately before 5th April 1976;

and other expressions have the same meanings as in the Act.

(3) Unless the context otherwise requires, any reference in these regulations—

(*a*) to a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number;

(*b*) to any provision made by or contained in any enactment or instrument shall be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which may re-enact or replace it with or without modification.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**b**) shall apply for the purposes of the interpretation of these regulations as they apply for the purposes of the interpretation of an Act of Parliament.

(**a**) 1975 c. 61. (**b**) 1889 c. 63.

PART II

CLAIMS

Manner and time in which claims are to be made

2.—(1) Every claim shall be made in writing to the Secretary of State on a form approved by the Secretary of State or in such other manner, being in writing, as the Secretary of State may 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) A claim made in any week shall be treated as made at the beginning of that week and, subject to paragraph (3), a claim shall be made when it is received in an office of the Department.

(3) If in any case the Secretary of State is satisfied that it is through no fault on the part of the person making a claim that the claim was not received in an office of the Department in a week earlier than the one in which it was in fact so received, he may specify in writing an earlier week, being a week not more than 13 weeks before that in which the claim was in fact so received, and the claim shall be treated as having been so received in that earlier week.

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

(5) If a claim 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 Secretary of State may, in his 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 supplied the Secretary of State shall treat the claim as if it had been duly made in the first instance.

(6) 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.

(7) 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.

(8) Any reference in the Act or in regulations—

(*a*) to the week in which a claim is made shall, in the case of a claim which, under paragraph (3), is treated as having been made in a week earlier than the week in which it was received in an office of the Department, be construed as a reference to that earlier week; or

(*b*) to the date on which a claim is made shall, in the case of a claim which, under paragraph (5) or (6), is treated as if it had been duly made in the first instance, 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. Every person making a claim shall furnish such certificates, documents, information and evidence in connection with the claim as may be required by the Secretary of State and, if reasonably so required, shall for that purpose attend at such office of the Department or other place as the Secretary of State may direct.

Advance claims and awards

4.—(1) If on the date on which a person makes a claim (being a date after 4th April 1976) the requirements for entitlement to benefit are not satisfied but the determining authority is of the opinion that the person is likely to satisfy those requirements for a period beginning on a day (hereafter in this regulation referred to as "the relevant day"), not more than 28 days after the date on which the claim is made, then the 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 if the requirements for entitlement are found not to have been satisfied on the relevant day.

PART III

PAYMENTS

Time and manner of payment of benefit

5.—(1) Benefit for any week shall be payable on the Tuesday of that week by means of a serial order unless in any particular case or class of cases the Secretary of State in his discretion makes other arrangements for payment, including payment in arrear.

(2) The Secretary of State shall take steps to notify persons to whom benefit is payable of the arrangements he 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 Secretary of State shall remain his 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 Secretary of State, deliver the said instrument or book to the Secretary of State or to such other person as he may direct.

Further information and notification of change of circumstances

6. 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 Secretary of State may require such certificates and other documents and such information of facts affecting that person's right to benefit or, as the case may be, to its receipt, as the Secretary of State may, in his discretion, require (either as a condition on which any sum or sums shall be payable or otherwise), and in particular shall notify the Secretary of State 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

7.—(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 12 months from the date on which the right is to be treated as having arisen; and for the purposes of this regulaton 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 an approved place 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*) of this paragraph 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 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*) of this paragraph applies, on such date as the Secretary of State specifies.

(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 12 months the Secretary of State has received written notice requesting payment of that sum; and

(*b*) throughout a period commencing within the said period of 12 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 12 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

"approved place" means a place approved by the Secretary of State for the purpose of making payment of sums on account of benefit.

PART IV

MISCELLANEOUS PROVISIONS

Persons unable to act

8.—(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 either—

(*a*) no receiver has been appointed by the Court of Protection with power to claim or, as the case may be, receive benefit on his behalf; or

(*b*) in Scotland, his estate is not being administered by any curator or other guardian acting or appointed in terms of law,

the Secretary of State may, upon written application made to him by a person over the age of 18, 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 Act and to receive and deal on his behalf with any sums payable to him.

(2) Where the Secretary of State has made an appointment under paragraph (1)—

(*a*) he may at any time in his discretion revoke any such appointment;

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

(*c*) any such appointment shall terminate when the Secretary of State is notified that a receiver or other person to whom paragraph (1)(*a*) or (*b*) applies 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 receiver, curator or other guardian, 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 Secretary of State for any sum paid.

Payment to a person under age 18

9. Where a person who is awarded benefit is under the age of 18, his signature on any instrument of payment shall be a sufficient discharge to the Secretary of State for any sum paid under such instrument.

Payments on death

10.—(1) On the death of a person who has made a claim to benefit, the Secretary of State may appoint such person as he may think fit to proceed with 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 under paragraph (1) may be paid or distributed by the Secretary of State to or amongst persons over the age of 16 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 16), and the provisions of regulation 7 shall apply to any such payment or distributions; and—

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

(*b*) where the Secretary of State is satisfied that any such sum or part thereof is needed for the benefit of any person under the age of 16, he 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 Secretary of State that he will apply the sum so paid for the benefit of the person under the age of 16.

(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 7 shall apply to any such payment or distribution; so however that, for the purposes of regulation 7, the period of 12 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 Secretary of State within 12 months from the date of the deceased's death or within such longer period as the Secretary of State may allow in any particular case.

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

Payment to a third party

11. In any case where—

(*a*) it appears to the Secretary of State to be necessary for protecting the interests of a person entitled to benefit 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 requests the Secretary of State to make that benefit payable to another person on his behalf,

the Secretary of State may, in his discretion, make arrangements whereby the whole or part of the benefit payable to the person entitled to it may be paid to another person on his behalf.

Breach of regulations

12. Any person who contravenes a requirement of regulation 5(3) or 6 shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £50.

PART V

Transitional provision

13.—(1) A claim made in the transitional period shall be treated as a claim made for a period beginning on 5th April 1976; so however that if a claim is made on or after 9th March 1976 and the determining authority is not satisfied that the requirements for entitlement to benefit are likely to be satisfied on 5th April 1976, but is of the opinion that those requirements are likely to be satisfied on a later day not more than 28 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 date 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 9th March 1976, unless it is satisfied that the requirements for entitlement to benefit are likely to be satisfied within 28 days after the date on which the claim was made and on 5th April 1976; or

(ii) if the claim was made on or after 9th March 1976, unless it is satisfied that the requirements for entitlement to benefit are likely to be satisfied within 28 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.

Barbara Castle,
Secretary of State for Social Services.

25th November 1975.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations contain provisions relating to claims to and payment of interim benefit under section 16 of the Child Benefit Act 1975. Part I of the Regulations relates to their citation, commencement and interpretation. Part II contains provisions relating to claims to the interim benefit. Part III contains provisions relating to payment of the interim benefit. Part IV contains miscellaneous provisions relating to persons who are unable to act; persons who have died; payment to a third party on behalf of the person entitled; and the penalty for a breach of certain requirements of the regulations. Part V contains transitional provisions whereby claims may be made and adjudicated upon during the transitional period (i.e. the period beginning on 2nd January 1976 and ending on 4th April 1976).

SI 1975/1924
ISBN 0-11-051924-8

