STATUTORY INSTRUMENTS

1975 No. 1926

SOCIAL SECURITY

The Child Interim Benefit (General) Regulations 1975

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

ARRANGEMENT OF REGULATIONS

1. Citation, commencement and interpretation.
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8. Exclusion from entitlement to benefit by reason of entitlement to other benefits from public funds.
9. Reduction of payment out of public funds on account of entitlement to benefit.
10. Modification of provisions relating to persons who are or have been outside Great Britain.

SCHEDULE

Orders in Council and Regulations referred to in regulation 10.

The Secretary of State for Social Services, in exercise of the powers conferred upon her by sections 2(2) and (3) and 13(1), as applied by section 16(11), and sections 16(6) and 24(1), (2) and (4) of the Child Benefit Act 1975 (a) and of all other powers enabling her in that behalf, hereby makes the following regulations:-

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Child Interim Benefit (General) Regulations 1975 and shall come into operation on 2nd January 1976.

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

"the Act" means the Child Benefit Act 1975;

"the Social Security Act" means the Social Security Act 1975(b);

(a) 1975 c. 61.

(b) 1975 c. 14.

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

"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;

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(**a**) 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.

Modification of section 24(2) *of the Act*

2. In determining for the purposes of section 16 of the Act whether a parent of a child has that child living with him in a week, section 24(2) of the Act (subject to any provision made by regulations, references in the Act 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 the words "at the beginning of that week" there were substituted the words "at any time in that week".

Circumstances in which a parent is to be or not to be treated as having a child living with him

3.—(1) A parent of a child shall, subject to the following provisions of this regulation, be treated as having that child living with him notwithstanding their absence from one another if that absence is temporary and—

(*a*) is due solely to the child's—

(i) receiving full-time education by attendance at a recognised educational establishment, or

(ii) undergoing medical or other treatment as an in-patient in a hospital or similar institution, or

(iii) being in residential accommodation pursuant to arrangements made under section 12 of the Health Services and Public Health Act 1968(**b**) or section 27(1) of the National Health Service (Scotland) Act 1947(**c**); or

(**a**) 1889 c. 63. (**b**) 1968 c. 46. (**c**) 1947 c. 27.

(*b*) in a case where the child is staying with another parent, does not last for more than 28 days or such longer period, not exceeding 84 days, as the determining authority accepts as being reasonable in the circumstances of any particular case; or

(*c*) in any other case, for such period not exceeding 84 days as the determining authority accepts as being reasonable in the circumstances of any particular case.

(2) Sub-paragraph (*a*) of paragraph (1) shall not apply to a parent unless he is a parent—

(*a*) with whom, but for an absence such as is described in that sub-paragraph, the child would ordinarily be living; and

(*b*) who, within the period of 12 months ending with the date on which he makes a claim to benefit, has in fact had the child living with him for at least 28 days.

(3) If the determining authority is of the opinion that more than one parent of a child could be regarded as having that child living with him in any week, that one of them as they jointly agree shall be treated as having the child living with him or, in default of such agreement, that one of them as the determining authority decides.

(4) An agreement under paragraph (3) shall be in writing and signed by the parents concerned; and an agreement or a decision of the determining authority under that paragraph shall not be effective to confer entitlement to benefit on a person for any week earlier than that in which the agreement is received by the Secretary of State or the decision of the determining authority is given if such earlier week is one in respect of which benefit has been paid to another person which would not have been paid had the agreement or decision been effective and which has not been required to be repaid or voluntarily repaid or recovered.

(5) A parent of a child shall not be treated as having that child living with him unless in the week in which that parent claims benefit that child is either present or ordinarily resident in Great Britain.

Circumstances in which spouses are or are not to be regarded as residing together

4.—(1) Subject to paragraphs (2) to (4), where a claimant is married he and his spouse shall not be treated as having ceased to reside together for the purposes of section 16 of the Act by reason of any absence the one from the other which is not likely to be permanent; and where an absence is likely to be permanent it must have lasted for at least 91 consecutive days immediately preceding the week in which benefit is claimed unless, when benefit is claimed, he and his spouse are then separated under an order of a Court of competent jurisdiction or deed of separation or he has previously been entitled to benefit.

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

(3) If one of two spouses has been continuously undergoing imprisonment or detention in legal custody for more than 91 days, he shall not thereafter be treated as residing with his spouse for any period throughout which he continues to undergo such imprisonment or detention.

(4) In determining under paragraph (1) whether spouses have been absent the one from the other for at least 91 consecutive days, a resumption of cohabitation with a view to effecting a reconciliation may be disregarded for a period not exceeding 7 consecutive days if it appears to the determining authority to be reasonable to do so in the circumstances of the particular case.

Circumstances in which a person is to be treated as receiving full-time education at a recognised educational establishment

5. A person shall be treated for the purposes of section 16 of the Act as receiving full-time education by attendance at a recognised educational establishment if he is receiving—

(*a*) primary or secondary education in England or Wales, otherwise than at school, under special arrangements made under section 56 of the Education Act 1944(**a**); or

(*b*) education in Scotland, elsewhere than at an educational establishment, under special arrangements made under section 14 of the Education (Scotland) Act 1962(**b**).

Interruption of full-time education

6. In determining for the purposes of section 16 of the Act whether a person is receiving full-time education as mentioned in section 2(1)(*b*) of the Act (persons aged 16 but under 19 who are to be treated as children), no account shall be taken of a continuous period (whether beginning before or after the person concerned attains age 16) of up to six months of any interruption to the extent to which the determining authority accepts 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 the determining authority accepts as being reasonable in the particular circumstances of the case.

Circumstances in which a person who has attained age 16 *and who has ceased to receive full-time education by attendance at a recognised educational establishment is to be treated as a child*

7. Where a person who has attained age 16 on or after 1st February 1976 and before 16th July 1976 ceases to receive full-time education by attendance at a recognised educational establishment in England or Wales not earlier than a day in the week containing 28th May 1976 but before 16th July 1976, he shall be treated as continuing to fall within section 2(1) of the Act (person to be treated as a child for any week in which he is under the age of 16 or under the age of 19 and receiving full-time education by attendance at a recognised educational establishment) up to and including 16th July 1976.

Exclusion from entitlement to benefit by reason of entitlement to other benefits from public funds

8.—(1) A person shall not be entitled to benefit in any week throughout which he is entitled, in respect of a child living with him of whom he is a parent for the purposes of the Act, to a benefit or an allowance, or to an increase of a benefit or of an allowance at the rate appropriate to an only, elder or eldest qualifying child, such as is referred to in paragraph (2) (hereafter in this regulation and in regulation 9 referred to as "specified benefit").

(**a**) 1944 c. 31. (**b**) 1962 c. 47.

(2) A specified benefit is—

(*a*) under the Social Security Act—

(i) child's special allowance under section 31, guardian's allowance under section 38 (but in the case of guardian's allowance only where the person entitled to that allowance is so entitled in respect of every child living with him of whom he is a parent for the purposes of the Act) or an allowance under section 70 in respect of children of deceased's family;

(ii) widow's allowance, widowed mother's allowance or Category A, B or C retirement pension under section 41, invalid care allowance under section 49, benefit corresponding to widowed mother's allowance provided for by regulations made under section 39(4), or an increase of disablement pension under section 64(1)(*b*);

(*b*) under the Industrial Injuries and Diseases (Old Cases) Act 1975(**a**), an increase in respect of a child of such an allowance as is referred to in section 7 (nature and amount of benefit under industrial diseases benefit schemes);

(*c*) an allowance for a child granted in respect of the death of a person due to service or war injury—

(i) under powers conferred by or under the Ministry of Pensions Act 1916(**b**), the Air Force (Constitution) Act 1917(**c**), the Personal Injuries (Emergency Provisions) Act 1939(**d**), the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939(**e**), the Polish Resettlement Act 1947(**f**), the Home Guard Act 1951(**g**) or the Ulster Defence Regiment Act 1969(**h**);

(ii) under any scheme made under the Injuries in War Compensation Act 1914(**i**) or the Injuries in War Compensation Act 1914 (Session 2)(**j**) or any War Risk Compensation Scheme for the Mercantile Marine; or

(iii) which the Secretary of State accepts as being analogous to an allowance for a child granted in respect of death of a person due to service or war injury under any of the provisions referred to in (i) or (ii) above.

(3) Where a person has been paid benefit for any week for which he subsequently becomes entitled to a specified benefit, the specified benefit shall be reduced by the amount that has been paid by way of benefit for that week.

(4) A person shall not be entitled to benefit for any week in respect of which the Secretary of State certifies that there is payable to such person under the Family Allowances Act 1965(**k**), in respect of children included in his family for the purposes of that Act, an amount not less than the amount arrived at by multiplying the weekly rate of benefit by the number of children living with him, being children of that person for the purposes of section 16(1) of the Act.

(5) A certificate by the Secretary of State under paragraph (4) may be revoked at any time and with effect from a date before that on which it was revoked.

(**a**) 1975 c. 16. (**b**) 1916 c. 65. (**c**) 1917 c. 51. (**d**) 1939 c. 82.
(**e**) 1939 c. 83. (**f**) 1947 c. 19. (**g**) 1951 c. 8 (15 & 16 Geo. 6 & 1 Eliz. 2).
(**h**) 1969 c. 65. (**i**) 1914 c. 30. (**j**) 1914 c. 18 (5 & 6 Geo. 5).
(**k**) 1965 c. 53.

Reduction of payment out of public funds on account of entitlement to benefit

9.—(1) Subject to paragraph (2), for any period for which a person is entitled to benefit and for which, in respect of a child living with him of whom he is a parent for the purposes of the Act—

(*a*) he is entitled to an increase of benefit (not being a specified benefit) under the Social Security Act in respect of that child at the rate appropriate to an only, elder or eldest qualifying child; or

(*b*) some other person is entitled to any benefit or allowance in respect of that child under the Social Security Act or the Industrial Injuries and Diseases (Old Cases) Act 1975(**a**) or to any increase of a benefit or an allowance in respect of that child at the rate appropriate to an only, elder or eldest qualifying child under either of those Acts,

the weekly rate of such benefit or allowance or of such increase of benefit or allowance shall be reduced by the amount of benefit.

(2) In a case where paragraph (1)(*a*) does not apply, paragraph (1)(*b*) shall not apply if regulation 8(2) of the Social Security (General Benefit) Regulations 1974(**b**), as amended (**c**), or regulation 29(2) of the Social Security (Industrial Injuries) (Benefit) Regulations 1975(**d**) (circumstances in which a person is entitled in respect of a child not living with him to an increase of benefit at the weekly rate appropriate to an only, elder or eldest qualifying child notwithstanding that he is not contributing to the cost of providing for that child at a weekly rate not less than that of the increase of benefit) applies to the other person referred to in the said paragraph (1)(*b*).

Modification of provisions relating to persons who are or have been outside Great Britain

10.—(1) Section 13(3) of the Act (no person to be entitled to benefit for any week unless he is in Great Britain in that week and has been in Great Britain for more than 182 days in the 52 weeks preceding that week) shall be modified in accordance with the following paragraphs.

(2) For the purposes of sub-paragraphs (*a*) and (*b*) of the said section 13(3), a person shall be treated as in Great Britain on any day on which he is gainfully employed in one of the countries listed in column (1) of Part I of the Schedule to these regulations and while so employed would, as respects any claim to a family allowance, be regarded as being in Great Britain in accordance with the provisions of the articles referred to in column (2) of the said Part I.

(3) For the purposes of sub-paragraph (*b*) of the said section 13(3), a person who on any day—

(*a*) has been present in one of the countries listed in column (1) of Part II of the said Schedule shall be treated as having been present in Great Britain on that day if he would fall to be so treated as respects any claim to a family allowance in accordance with the provisions of the articles referred to in column (2) of the said Part II; or

(*b*) has been absent from Great Britain shall be treated as having been present in Great Britain if on that day he was—

(**a**) 1975 c. 16. (**b**) S.I. 1974/2079 (1974 III, p. 8113).
(**c**) There is no amendment relevant to the subject matter of this paragraph.
(**d**) S.I. 1975/559 (1975 I, p. 1979).

(i) a merchant seaman within the meaning of the Family Allowances (Qualifications) Regulations 1969(**a**), as amended(**b**); or

(ii) a member of the forces within the meaning of those regulations; or

(iii) living with such a member of the forces and is that member's spouse.

(4) In paragraph (3) "family allowance" means an allowance under the Family Allowances Act 1965(**c**) and "living with" is to be construed in the same way as "living together" in section 17(1) of that Act.

(5) A person who is entitled to benefit shall not be disentitled thereto by reason only of the fact that he is absent from Great Britain if that absence is and when it began was for a temporary purpose and has not lasted for a continuous period exceeding 26 weeks.

Barbara Castle,
Secretary of State for Social Services.

25th November 1975.

SCHEDULE

Regulation 10(2) PART I

Country (1)	Order in Council or Regulation (2)	Reference (3)
Austria	The Family Allowances, National Insurance and Industrial Injuries (Austria) Order 1972, Schedule, article 25(1) and (4)	S.I. 1972/1586 (1972 III, p. 4592).
Jersey	The Family Allowances (Jersey) Order 1973, Schedule, article 3	S.I. 1973/1085 (1973 II, p. 3325).
Spain	The Family Allowances, National Insurance and Industrial Injuries (Spain) Order 1975, Schedule, article 22(1)	S.I. 1975/415 (1975 I, p. 1293).
Yugoslavia	The Family Allowances, National Insurance and Industrial Injuries (Yugoslavia) Order 1958, Schedule, article 23(1)	S.I. 1958/1263 (1958 II, p. 1628).

(**a**) S.I. 1969/212 (1969 I, p. 543).
(**b**) There is no amendment relevant to the subject matter of this paragraph.
(**c**) 1965 c. 53.

PART II Regulation 10(3)(*a*)

Country (1)	Order in Council or Regulation (2)	Reference (3)
Australia	The Family Allowances and National Insurance (Australia) Order 1962, Schedule, article 7	S.I. 1962/1869 (1962 II, p. 2179).
Austria	The Family Allowances, National Insurance and Industrial Injuries (Austria) Order 1972, Schedule, article 25(2)	S.I. 1972/1586 (1972 III, p. 4592).
Belgium	The Family Allowances, National Insurance and Industrial Injuries (Belgium) Order 1958, Schedule, article 24(1)	S.I. 1958/771 (1958 II, p. 1599).
Canada	The Family Allowances and National Insurance (Canada) Order 1959, Schedule, article 13	S.I. 1959/2216 (1959 II, p. 1898).
Germany (Federal Republic)	The Family Allowances, National Insurance and Industrial Injuries (Germany) Order 1961, First Schedule, article 31(2)	S.I. 1961/1202 (1961 II, p. 2371).
Gibraltar	The Family Allowances, National Insurance and Industrial Injuries (Gibraltar) Order 1974, Schedule, article 4(*a*)	S.I. 1974/555 (1974 I, p. 2279).
Guernsey	The Family Allowances (Guernsey Reciprocal Arrangements) Regulations 1951, Schedule, article 3	S.I. 1951/1101 (1951 I, p. 684).
Northern Ireland	The Family Allowances (Northern Ireland Reciprocal Arrangements) Regulations 1946, Schedule, article 3	S. R. & O. 1946/438 (Rev. VII, p. 626: 1946 I, p. 518).
Isle of Man	The Family Allowances (Isle of Man Reciprocal Arrangements) Regulations 1946, Schedule, article 3	S. R. & O. 1946/1273 (Rev. VII, p. 630: 1946 I, p. 521).
Jersey	The Family Allowances (Jersey) Order 1973, Schedule, article 5	S.I. 1973/1085 (1973 II, p. 3325).
New Zealand	The Family Allowances and National Insurance (New Zealand) Order 1970, Schedule, article 13	S.I. 1970/150 (1970 I, p. 650).
Spain	The Family Allowances, National Insurance and Industrial Injuries (Spain) Order 1975, Schedule, article 22(6)	S.I. 1975/415 (1975 I, p. 1293).
Switzerland	The Family Allowances, National Insurance and Industrial Injuries (Switzerland) Order 1969, Schedule 1, article 10	S.I. 1969/384 (1969 I, p. 1050).
Yugoslavia	The Family Allowances, National Insurance and Industrial Injuries (Yugoslavia) Order 1958, Schedule, article 23(2)	S.I. 1958/1263 (1958 II, p. 1628).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations contain miscellaneous provisions relating to the right to the interim benefit under section 16 of the Child Benefit Act 1975.

Regulation 1 relates to the citation, commencement and interpretation of the regulations. Regulations 2 and 3 relate to the circumstances in which a parent of a child is to be regarded as having that child living with him. Regulation 4 specifies circumstances in which married persons will be regarded as having ceased to reside together. Regulations 5 to 7 specify the circumstances in which persons aged 16 but under 19 are to be regarded as children notwithstanding that they are being educated otherwise than by attendance at a recognised educational establishment, or that their education is temporarily interrupted, or that their education has ceased. Regulations 8 and 9 specify the circumstances in which a person is to be disentitled to the interim benefit because he is entitled to some other payment out of public funds and in which some other payment out of public funds is to be reduced because a person is entitled to the interim benefit. Regulation 10, together with the Schedule to the Regulations, specifies the circumstances in which the absence of a person from Great Britain is not to disentitle him to the interim benefit.

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