STATUTORY INSTRUMENTS

1970 No. 1524

SOCIAL SECURITY

The Family Allowances (Claims and Payments) Regulations 1970

Made - - - -	*13th October* 1970
Laid before Parliament	*22nd October* 1970
Coming into Operation	*26th October* 1970

The Secretary of State for Social Services, in conjunction with the Treasury so far as relates to matters with respect to which the Treasury have so directed, in exercise of his powers under sections 7 and 13(1) of the Family Allowances Act 1965(**a**) and section 52(2)(b) of the National Insurance Act 1965(**b**) as amended and applied by section 2 of the National Insurance &c. Act 1969(**c**), and of all other powers enabling him in that behalf, hereby makes the following regulations :—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Family Allowances (Claims and Payments) Regulations 1970 and shall come into operation on 26th October 1970.

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

" the Act " means the Family Allowances Act 1965 ;

" allowance " means an allowance under the Act ;

" award or decision " includes a revised award or decision ;

" claim " means a claim for or in respect of an allowance ;

" the determining authority " means, as the case may require, the Chief National Insurance Commissioner appointed under section 9 of the National Insurance Act 1966(**d**) and any other National Insurance Commissioner so appointed or any tribunal constituted under subsection (3) of that section, a local tribunal constituted under section 77 of the National Insurance Act 1965 or an insurance officer appointed under section 68(1) of that Act ;

" the Secretary of State " means the Secretary of State for Social Services ;

" week " means a period of 7 days commencing from midnight between Monday and Tuesday ;

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

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulation.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**e**) shall apply to this instrument and the revocations effected by it as if this instrument and the regulations revoked by it were Acts of Parliament, and as if each revocation were a repeal.

(**a**) 1965 c. 53. (**b**) 1965 c. 51. (**c**) 1969 c. 4. (**d**) 1966 c. 6. (**e**) 1889 c. 63.

Manner in which claims may be made

2.—(1) Every claim shall be made to the Secretary of State—

(*a*) on a form approved by him for the purpose (in this regulation called "the appropriate form") containing the several particulars indicated therein or required thereby for the proper determination of the claim and in accordance with the instructions contained therein ; or

(*b*) 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 :

Provided that the Secretary of State may require the person making the claim to complete the appropriate form.

(2) Every claim shall be sent by post or delivered to the Secretary of State and, where any such claim is sent by post, the date of the posting of the claim shall be treated as the date on which the claim was made:

Provided that, if there is any reasonable doubt as to the date of the posting of any claim received by the Secretary of State, it shall be deemed to have been delivered in the ordinary course of post and to have been posted accordingly.

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

(4) If, owing to the absence of due signature or of due certification, a claim is defective at the date of its receipt by the Secretary of State, the Secretary of State may, in his discretion, refer the claim to the person making it and, if the claim is returned duly signed and certified within one month of the date on which it is so referred, the claim shall be deemed to have been duly made in the first instance.

(5) Where a claim has been made in accordance with the provisions of this regulation, the person making the claim may, at any time before a decision has been given thereon, amend the claim by notice in writing sent by post or delivered to the Secretary of State, and any claim so amended may be treated as if it had been made as so amended in the first instance.

Information in support of claim

3. Every person claiming an allowance (including any person appointed to act on his behalf under regulation 10) shall furnish such certificates and other documents and information as the Secretary of State may require in connection with the claim.

Accruer of allowances

4. An allowance awarded shall begin to accrue on a Tuesday and shall terminate on a Monday, provided that no allowance shall begin to accrue before the date of entitlement.

Method of payment of sums on account of allowances

5. Sums on account of an allowance shall become receivable at the time hereinafter prescribed and shall be paid either by means of allowance orders payable in respect of every week to a person by whom such sums are receivable or in such other special manner as the Secretary of State may in any particular case and for any particular period determine.

Allowance order books

6.—(1) In every case in which sums on account of an allowance are payable by means of allowance orders, the Secretary of State shall cause arrangements to be made whereby—

(*a*) on furnishing such evidence of identity and such other particulars as may be required, the person to whom the allowance belongs or (where an order has been made under section 4(3) of the Act) by whom sums on account of the allowance are receivable, or any person appointed under regulation 10 to act on behalf of any such person, may obtain a book of allowance orders ;

(*b*) written notice is sent to that person of the arrangements so far as they affect him ; and

(*c*) a fresh book of allowance orders may be issued to that person on the expiration of the previous book.

(2) A book of allowance orders issued to any person shall remain the property of the Secretary of State.

(3) Any person having possession of an allowance order book or an unpaid allowance order in respect of an allowance shall, on the termination of that allowance or on the request of the Secretary of State, as the case may be, deliver such book or order to the Secretary of State or to such officer as he may appoint.

Date on which sums are receivable on account of allowances

7. Sums on account of an allowance shall be receivable—

(1) in the case of a sum payable by means of an allowance order, on the Tuesday of the week in respect of which it is to be paid ;

(2) in the case of a sum to be paid in any other manner under these regulations, on such day as the Secretary of State may in any such case determine.

Extinguishment of right to payment of sums on account of allowances

8.—(1) The right to payment of any sum on account of an allowance shall, subject to paragraph (2) of this regulation, 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 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 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 determines.

(2) Where a question arises whether the right to payment of any sum on account of an allowance 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 the 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) of this regulation, be treated as having arisen on that date.

(3) In this regulation—

" instrument of payment " means an allowance order for the payment of a sum on account of an allowance and any other instrument whatsoever which is intended to enable a person to obtain payment of such a sum ;

" payee " means a person by whom sums on account of allowances are receivable and any person authorised or appointed to act for such a person ; and

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

Further information and notification of change of circumstances

9. Any person to whom an allowance belongs or by whom and on whose behalf sums on account of an allowance are receivable (including any person appointed to act on behalf of any such person under regulation 10) shall, in such manner and at such times as the Secretary of State may determine, furnish to the Secretary of State such certificates and other documents and such information of facts affecting the right to the allowance as the Secretary of State may require, whether as a condition on which any such sum or sums shall be receivable or otherwise, and in particular shall notify the Secretary of State in writing of any change of circumstances affecting the right to the allowance as soon as practicable after the occurrence of any such change.

Representation of persons unable to act

10. Where any person, being a person who is alleged to be entitled to an allowance or to whom an allowance belongs or by whom sums on account of an allowance are receivable, is or becomes unable for the time being to act, the Secretary of State may appoint any person whom he may consider suitable

and who is prepared to be so appointed, to exercise on behalf of the person unable to act any right or power which that person may be entitled to exercise under the Act and to receive any sum on account of an allowance on behalf of that person:

Provided that—

(1) the Secretary of State may at any time in his discretion revoke any appointment made under this regulation ;

(2) any person appointed under this regulation may, on giving the Secretary of State not less than one month's notice in writing of his intention so to do, terminate his appointment.

Claims and payments after death

11.—(1) On the death of a person who had made a claim for an allowance or to whom an allowance belonged or by whom sums on account of an allowance were receivable the Secretary of State may appoint such person as he may think fit to proceed with such a claim.

(2) Where the right to payment of any sum on account of an allowance to a deceased person was not extinguished at the date of his death, the period of 12 months referred to in regulation 8 of these regulations shall be calculated from the date on which the right to payment of that sum is treated as having arisen in relation to any such person as is referred to in paragraph (3) of this regulation:

Provided that this paragraph shall not apply to any sum on account of an allowance for the payment of which written application has not been made to the Secretary of State within 12 months after the date of death or within such longer period as the Secretary of State may allow in any particular case.

(3) Any sum on account of allowances which is payable under an award or a claim proceeded with under paragraph (1) of this regulation may be paid or distributed by the Secretary of State to or amongst persons claiming as personal representatives, legatees, next of kin or creditors of a deceased person who had made a claim for the allowance to which the sum relates or to whom the allowance belonged or by whom sums on account of the allowance were receivable or, in the case of illegitimacy of such deceased person, to or amongst others.

(4) The receipt of any one or more persons so claiming of the age of 16 years or upwards shall be a good discharge to the Secretary of State for any sum so paid, and in the case of such a person being a child under the age of 16 years the Secretary of State may, if he is satisfied that the sum or any part thereof is needed for the benefit of that child, obtain a good discharge therefor by paying that sum or part thereof, as the case may be, to a person (who need not be a person specified in paragraph (3) of this regulation) who has satisfied the Secretary of State that he will apply the sum for the benefit of that child.

(5) The Secretary of State may dispense with strict proof of the title of persons so claiming as aforesaid.

Revocation and transitional provisions

12.—(1) The regulations specified in column 1 of the Schedule to these regulations are hereby revoked to the extent mentioned in column 3 of that Schedule.

(2) Anything whatsoever done under or by virtue of any regulation revoked by these regulations shall be deemed for the purposes of these regulations to have been done under or by virtue of the corresponding provision of these regulations, and anything whatsoever begun under any such regulation may be continued under these regulations as if begun under these regulations.

(3) Nothing in paragraph (2) of this regulation shall be taken as affecting the application, by regulation 1(4) of these regulations, of the rules for the construction of Acts of Parliament contained in section 38 of the Interpretation Act 1889 (effect of repeal) to the revocations effected by this instrument.

(4) Regulation 8 of these regulations shall apply to any right to a sum on account of an allowance accruing before the coming into operation of these regulations except in the case—

(*a*) where the right became an accrued right before 6th September 1968 ; and

(*b*) where the application of the provisions of section 7(2) of the Act has, or would have, resulted in that right being extinguished.

Signed by authority of the Secretary of State for Social Services.

Paul Dean,
Parliamentary Under Secretary of State,
Department of Health and Social Security.

5th October 1970.

David Howell,
Bernard Weatherill,
Two of the Lords Commissioners of
Her Majesty's Treasury.

13th October 1970.

Regulation 12(1) SCHEDULE

Column 1 Regulations revoked	Column 2 References	Column 3 Extent of revocation
The Family Allowances (Making of Claims and Payments) Regulations 1946.	S.R. & O. 1946/137 (Rev. VII, p. 616: 1946 I, p. 509).	The whole regulations.
The Family Allowances (Making of Claims and Payments) Amendment Regulations 1959.	S.I. 1959/1155 (1959 I, p. 1274).	The whole regulations.
The Family Allowances (Making of Claims and Payments) Amendment Regulations 1969.	S.I. 1969/288 (1969 I, p. 784).	The whole regulations.
The Family Allowances, National Insurance and Industrial Injuries (Post Office Act 1969 Consequential) Regulations 1969.	S.I. 1969/1135 (1969 II, p. 3371).	Regulation 2.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations revoke and consolidate the Regulations hitherto in force for the purposes of the Family Allowances Act 1965 in relation to the making of claims and payments under that Act. The Regulations provide for the manner in which claims to family allowances and the payment of allowances should be made.

Regulation 2(4) incorporates an amendment by which, where the Secretary of State refers a defective claim to a claimant for proper signature or certification, it is deemed to have been properly made in the first instance if it is returned properly completed within one month. Under the previous Regulations the Secretary of State had a discretion whether or not so to treat it.

The other amendments are of a formal and clarifying nature.

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