STATUTORY INSTRUMENTS

1969 No. 288

SOCIAL SECURITY

The Family Allowances (Making of Claims and Payments) Amendment Regulations 1969

Made - - - -	*6th March* 1969
Laid before Parliament	11*th March* 1969
Coming into Operation	12*th March* 1969

The Secretary of State for Social Services, in conjunction with the Treasury, in exercise of his powers under section 52(2)(*b*) of the National Insurance Act 1965(**a**) as substituted by section 2(1) of the National Insurance &c. Act 1969(**b**) and section 2(3) and (4) of the said Act of 1969 and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the Family Allowances (Making of Claims and Payments) Amendment Regulations 1969, shall be read as one with the Family Allowances (Making of Claims and Payments) Regulations 1946(**c**), as amended(**d**), (hereinafter referred to as "the principal regulations") and shall come into operation on 12th March 1969.

Amendment of regulation 1(2) *of the principal regulations*

2. In regulation 1(2) of the principal regulations (definitions), after the definition of "claim" there shall be inserted the following definition:—

" 'the determining authority' means, as the case may require, the Chief National Insurance Commissioner appointed under section 9 of the National Insurance Act 1966(**e**) 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;"

Insertion of new regulation

3. After regulation 10 of the principal regulations there shall be inserted the following regulation:—

"*Extinguishment of right to payment of sums on account of allowances*

10A.—(1) The right to payment of any sum on account of an allowance shall, subject to paragraph (2) of this regulation, be extinguished where pay-

(**a**) 1965 c. 51. (**b**) 1969 c. 4.
(**c**) S.R. & O. 1946/137 (Rev. VII, p. 616: 1946 I, p. 509).
(**d**) There is no amendment which relates expressly to the subject matter of these regulations. (**e**) 1966 c. 6.

ment thereof is not obtained within the period of twelve months from the date on which the right is to be treated as having arisen; and for the purposes of this regulation the right shall be treated as having arisen—

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

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

(ii) if a further instrument of payment has been so given or sent as a replacement for an instrument of payment previously given or sent, on the date of 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 for Social Services 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 twelve months the said Secretary of State has received written notice requesting payment of that sum; and

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

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

(3) In this regulation—

(*a*) 'instrument of payment' means allowance orders for the payment through the Post Office of sums on account of allowances and any other instrument whatsoever payable through the Post Office or a bank; and

(*b*) '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."

Amendment of regulation 13(2) *of the principal regulations*

4. For paragraph (2) of regulation 13 of the principal regulations (claims and payments after death), there shall be substituted the following paragraph:—

"(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 twelve months referred to in regulation 10A 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)(*a*) 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 for Social Services within twelve months after the date of death or within such longer period as the said Secretary of State, having regard to the circumstances of the particular case, may determine."

Transitional provision

5. Regulation 10A of the principal 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 more than six months before the coming into operation of the National Insurance &c. Act 1969; and

(*b*) where the application of the provisions of section 7(2) of the Family Allowances Act 1965(a) has, or would have, resulted in that right being extinguished.

R. H. S. Crossman,
Secretary of State for Social Services.

6th March 1969.

B. K. O'Malley,
Walter Harrison,
Two of the Lords Commissioners of Her Majesty's Treasury.

6th March 1969.

EXPLANATORY NOTE

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

Section 7(2) of the Family Allowances Act 1965, which provided for the extinguishment of the right to sums on account of family allowances where payment of such sums was not obtained within six months of their being receivable,

(a) 1965 c. 53.

was repealed by the National Insurance &c. Act 1969. Regulation 3 of these Regulations, which is made under powers conferred by the 1969 Act, provides that the period within which payment of sums on account of family allowances must be obtained shall be twelve months and also provides for a further extension of this period in certain circumstances.

The remaining provisions of the Regulations are of a consequential or transitional nature.