Statutory Rules and Orders of Northern Ireland	*Citation*	*Extent of Revocation*
S.R. & O. (N.I.) 1960, No. 141	The National Insurance (Unemployment and Sickness Benefit) Amendment (No. 2) Regulations (Northern Ireland), 1960.	The whole of the regulations.
S.R. & O. (N.I.) 1960, No. 194	The National Insurance (Graduated Contributions and Non-participating Employments — Miscellaneous Provisions) Regulations (Northern Ireland), 1960.	In the Schedule, the entry relating to the National Insurance (Unemployment and Sickness Benefit) Regulations (Northern Ireland), 1948.
S.R. & O. (N.I.) 1961, No. 77	The Family Allowances and National Insurance (Commissioner—Transitional and Consequential Provisions) Regulations (Northern Ireland), 1961.	In the Schedule, the entry relating to the National Insurance (Unemployment and Sickness Benefit) Regulations (Northern Ireland), 1948.

EXPLANATORY NOTE

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

These Regulations consolidate the National Insurance (Unemployment and Sickness Benefit) Regulations (Northern Ireland), 1948, and subsequent amending regulations which are set out in the Third Schedule and are revoked by regulation 16.

No amendments other than those of a drafting or consequential nature have been made.

1961. No. 223 **[C]**

FAMILY ALLOWANCES

Qualifications

REGULATIONS, DATED 27TH NOVEMBER, 1961, MADE BY THE MINISTRY OF LABOUR AND NATIONAL INSURANCE, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE FAMILY ALLOWANCES ACT (NORTHERN IRELAND), 1945.

The Ministry of Labour and National Insurance, in conjunction with the Ministry of Finance so far as relates to matters with regard to which the Ministry of Finance has so directed, in exercise of powers conferred by sections 17(1), 21(7) and 24 of the Family Allowances Act (Northern Ireland),

1945(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 Family Allowances (Qualifications) Regulations (Northern Ireland), 1961, and shall come into operation on the 1st December, 1961.

(2) In these regulations—

"the Act" means the Family Allowances Act (Northern Ireland), 1945;

"the Ministry" means the Ministry of Labour and National Insurance;

the expressions "a member of the Forces", "a merchant seaman", "a British protected person" and "a person under treatment" have the meanings assigned to them in the First Schedule;

"parent" means in relation to any child, the person in whose family such child would, if living with such person, be treated as included for the purposes of the Act as being issue of that person or, in the case of a man and his wife living together, as being issue of either the man or his wife.

PART II

REQUIREMENTS AS TO NATIONALITY, RESIDENCE, ETC.

Requirements for family of a man and his wife living together

2. It shall be a condition of the right to any allowance at any date for the family of a man and his wife living together, if the man is not a British subject whose place of birth is in the United Kingdom, that one of the following requirements is satisfied, namely:

(*a*) that the wife is at that date a British subject whose place of birth is in the United Kingdom; or

(*b*) that the man or the wife is a British subject or a British protected person who for at least one hundred and four weeks in the aggregate out of the three years immediately preceding that date has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman; or

(*c*) that for at least one hundred and fifty-six weeks in the aggregate out of the four years immediately preceding that date the man or the wife has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman.

Requirements for family of a man not having a wife or not living together with his wife

3. It shall be a condition of the right to any allowance at any date for the family of a man not having a wife or not living together with his wife, if he is not a British subject whose place of birth is in the United Kingdom, that one of the following requirements is satisfied, namely:

(*a*) that he is at that date a British subject or a British protected person who for at least one hundred and four weeks in the aggregate out

(a) 1945. c. 19.

of the three years immediately preceding that date has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman; or

(*b*) that for at least one hundred and fifty-six weeks in the aggregate out of the four years immediately preceding that date he has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman.

Requirements for family of a woman not having a husband or not living together with her husband

4. It shall be a condition of the right to any allowance at any date for the family of a woman not having a husband or not living together with her husband, if she is not a British subject whose place of birth is in the United Kingdom, that one of the following requirements is satisfied, namely:

(*a*) that she is a British subject or a British protected person who for at least one hundred and four weeks in the aggregate out of the three years immediately preceding that date has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman; or

(*b*) that for at least one hundred and fifty-six weeks in the aggregate out of the four years immediately preceding that date she has either been present in Northern Ireland or, when not so present, been a member of the Forces or a merchant seaman.

Aggregation of periods

5. Periods during which a person is present in Northern Ireland and periods during which, when not so present, he is a member of the Forces or a merchant seaman shall be aggregated.

Effect of once satisfying requirements

6. Notwithstanding anything contained in this Part, where a person has once been a member, otherwise than as a child, of a family for which the right to an allowance existed at any time while he or she was such a member, he or she shall thenceforth be treated as having satisfied the conditions of sub-section (1) of section 24 of the Act for the purposes of any allowances at any date for that family or for any other family of which he or she may subsequently become a member.

PART III

RULES FOR DETERMINING WHETHER PRESENCE IN OR ABSENCE FROM NORTHERN IRELAND IS OR IS NOT TO BE TREATED AS TEMPORARY

Interpretation

7. In this Part, "presence" and "absence" mean actual presence in and actual absence from Northern Ireland respectively.

An adult's presence in or absence from Northern Ireland

8.—(1) For the purposes of sub-section (2) of section 24 of the Act—

(*a*) the presence of a person at any date shall be treated as temporary except in the following circumstances:

(i) if for at least twenty-six weeks in the aggregate out of the twelve months immediately preceding that date he has either been present

or, when not so present, been a member of the Forces, a merchant seaman or a person under treatment; or

(ii) if the period of that presence has been immediately preceded by a period of absence throughout which there was a right to an allowance for his family;

(*b*) the absence of a person at any date shall be treated as temporary except in the following circumstances:

(i) if it is or was when it began for a purpose other than a temporary purpose; or

(ii) if it has lasted for a continuous period exceeding six months; or

(iii) if the person is a member of a family for which there was no right to an allowance in existence immediately prior to that date, and for more than twenty-six weeks in the aggregate out of the twelve months immediately preceding that date he has neither been present nor been a member of the Forces, a merchant seaman or a person under treatment:

Provided that the absence of a person at any date while he is a member of the Forces, a merchant seaman or a person under treatment shall always be treated as temporary if for at least twenty-six weeks in the aggregate out of the twelve months immediately preceding that date he has either been present or, when not so present, been a member of the Forces, a merchant seaman or a person under treatment.

(2) Where at any date there is already in existence a right to one or more allowances for the family of a man and his wife, that family shall, for the purposes of this regulation, be treated as continuing in existence despite the death of either of them occurring whilst they are living together.

Aggregation of periods

9. For the purposes of regulation 8 periods during which a person is present and periods during which, when not so present, he is a member of the Forces, a merchant seaman or a person under treatment, shall be aggregated.

A child's presence in or absence from Northern Ireland

10. For the purposes of sub-section (3) of section 24 of the Act, the presence or absence of a child at any date shall not be treated as temporary except in the following circumstances:

(*a*) the presence at any date of a child whose place of birth is not in the United Kingdom and who would, if his presence were treated as other than temporary, be included in the family of any person other than a parent, shall be treated as temporary unless—

(i) he has been present for the whole period of six months immediately preceding that date; or

(ii) the period of that presence has been immediately preceded by a period of temporary absence;

(*b*) the absence of a child who is ordinarily resident in Northern Ireland shall be treated as temporary—

(i) if and so long as it is not intended to exceed and has not exceeded six months, for the period of such absence; or

(ii) in any other case if it is for a temporary purpose, for such period or periods, if at all, as the Ministry in its discretion may from time

to time determine having regard to all the circumstances of the particular case:

Subject to the qualification that a child born during the absence from Northern Ireland of his mother shall not be treated as ordinarily resident in Northern Ireland during any period before he first becomes present in Northern Ireland unless at the date of his birth the absence of his mother was temporary in accordance with the provisions of sub-paragraph (*b*) of paragraph (1) of regulation 8.

PART IV

RULES FOR DETERMINING WHETHER THE ABSENCE OF A CHILD FROM A PERSON OR THE INTERRUPTION OR REDUCTION OF A PERSON'S CONTRIBUTION IS OR IS NOT TO BE TREATED AS TEMPORARY

Interpretation

11.—(1) In this Part—

"hospital" means any premises used for the reception and treatment of persons suffering from any illness including mental illness or of persons suffering from physical disability or mental defectiveness and any premises used for providing treatment during convalescence or for medical rehabilitation.

(2) For the purposes of this Part a man and his wife living together shall be treated as one person and references to a person (other than a fit person) shall be construed as references to such persons as are mentioned in paragraphs (*a*), (*b*) and (*c*) respectively of sub-section (1) of section 3 of the Act, that is to say, a man and his wife living together, such a man as is mentioned in the said paragraph (*b*) and such a woman as is mentioned in the said paragraph (*c*).

Absence from a parent and interruption or reduction of a parent's contribution

12.—(1) Subject to the provisions of regulation 14, in determining whether any absence (other than at a school) of a child from a parent or any interruption or reduction of a parent's contribution to the cost of providing for a child is or is not to be treated as temporary for the purposes of sub-section (7) of section 21 of the Act the following rules shall apply:

(*a*) any such absence, interruption or reduction due to the child undergoing treatment as an in-patient at a hospital shall be treated as temporary while the child is undergoing such treatment;

(*b*) any such interruption or reduction due to the child being at a school shall be treated as temporary while the child is at that school;

(*c*) any such absence which does not fall within sub-paragraph (*a*) shall be treated as temporary for a period of twelve weeks and no longer, and any such interruption or reduction which does not fall within sub-paragraph (*a*) or (*b*) shall be treated as temporary for a period of four weeks and no longer:

Provided that if the absence, interruption or reduction has been immediately preceded by an absence, interruption or reduction falling within sub-paragraph (*a*) or (*b*), or by absence at a school, the said period of twelve weeks or four weeks shall not begin to run until after the termination of that immediately preceding absence, interruption or reduction as the case may be.

(2) Notwithstanding the provisions of sub-paragraph (*c*) of paragraph (1), any absence from a parent falling within that sub-paragraph shall cease to be

treated as temporary if provision has been made for the child, other than by a person within the meaning of paragraph (2) of regulation 11, for a period of four weeks during which no such person other than that parent has been providing in his own home for the child or contributing at the rate of eight shillings a week or more to the cost of providing for the child elsewhere.

Absence from a person other than a parent and interruption or reduction of such person's contribution

13. Subject to the provisions of regulation 14, any absence (other than at a school) of a child from a person other than a parent and any interruption or reduction of the contribution of a person other than a parent to the cost of providing for a child shall, for the purposes of sub-section (7) of section 21 of the Act, be treated as temporary for the first four weeks thereof and no longer.

Further provisions relating to absence and to interruption or reduction of contributions

14. Notwithstanding anything contained in regulations 12 and 13, no absence (other than at a school) of a child from any person, and no interruption or reduction of the contribution made by any person to the cost of providing for a child, shall be treated as temporary for the purposes of sub-section (7) of section 21 of the Act in the following circumstances:

(*a*) if there is in force an order under the Children and Young Persons Act (Northern Ireland), 1950(**a**), committing the child to the care of a fit person:

Provided that this shall not apply to any absence from, or to any interruption or reduction of the contribution made by, such fit person; or

(*b*) if the absence, interruption or reduction is or is intended to be other than temporary.

PART V

CIRCUMSTANCES IN WHICH A PERSON IS TO BE TREATED AS UNDERGOING FULL TIME INSTRUCTION

15.—(1) Subject to the provisions of paragraph (2), a person shall be treated as undergoing full time instruction in a school in any of the following circumstances:

(*a*) if he is undergoing full time instruction—

(i) in Northern Ireland, at any University or at any school as defined by the Education Act (Northern Ireland), 1947(**b**), or establishment for further education; or

(ii) at any educational, instructional, training or other establishment or institution, whether in Northern Ireland or elsewhere, which, in the opinion of the Ministry, should be treated as an establishment similar to any one of those referred to in (i);

and for the purposes of this sub-paragraph any instruction received after the hour of 5 p.m. shall be disregarded; or

(*b*) if he is receiving primary or secondary education in Northern Ireland otherwise than at school, under special arrangements made under section 52 of the Education Act (Northern Ireland), 1947(**c**).

(**a**) 1950. c. 5.
(**b**) 1947. c. 3.
(**c**)1947. c. 3.

(2) A person shall not cease to be treated as undergoing full time instruction during any period during which he would have been undergoing instruction or receiving education in accordance with the provisions of paragraph (1) but for the occurrence of any of the following events or, for the purposes of sub-paragraph (*b*) of the said paragraph, any event which is analogous to any of the following events:

(*a*) holidays of that person which are recognised by the responsible school authority;

(*b*) the temporary closure by the responsible school authority during a school term of the school which that person normally attends;

(*c*) absence from school of that person authorised by the responsible school authority by reason of contact with infectious disease;

(*d*) illness or disability of mind or body of that person;

(*e*) absence from school on not more than two occasions in any calendar year owing to illness (other than illness of that person) occurring at, or any absence from school owing to death at, the home of that person, so however that any such absence after the first two weeks shall not be treated as a period of full time instruction;

(*f*) the temporary suspension of the ordinary means of transport of that person to school where alternative means of reaching school are not reasonably available;

(*g*) absence from school owing to the removal of that person from one school to another, so however that any such absence after the first four weeks shall not be treated as a period of full time instruction.

PART VI

CIRCUMSTANCES IN WHICH A PERSON IS TO BE TREATED AS UNDERGOING FULL TIME TRAINING

16. A person who is not in receipt of earnings which provide him wholly or substantially with a livelihood shall be treated as undergoing full time training during any period in which he is undergoing such training and any period in which such training would have continued but for—

(*a*) interruption due to holidays; or

(*b*) interruption due to illness or disability of mind or body of that person; or

(*c*) interruption due to change of employment by that person except during any period in which he is otherwise gainfully occupied or which continues after the first four weeks of such interruption; or

(*d*) any other interruption of that person's full time training which is of a temporary nature and which it is reasonable to disregard in the circumstances of his case, so however that he shall not be treated as undergoing full time training on account of any such interruption after the first four weeks thereof.

PART VII

REGULATIONS REVOKED

17. The regulations specified in the Second Schedule are hereby revoked to the extent mentioned in the third column of that Schedule.

Sealed with the Official Seal of the Ministry of Labour and National Insurance for Northern Ireland this 27th day of November, nineteen hundred and sixty-one.

(L.S.) *H. A. Lowry,*
Assistant Secretary.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 27th day of November, nineteen hundred and sixty-one.

(L.S.) *W. W. Arthur,*
Assistant Secretary.

FIRST SCHEDULE Regulation 1

Meaning of certain expressions contained in these regulations

1. The expression "a member of the Forces" means any person who, being a member of the armed Forces of the Crown raised in the United Kingdom or a member of any nursing or other auxiliary service similarly raised and forming part of or attached to those Forces, is in receipt of service pay in respect of naval, military or air force service or is serving as a commissioned or enlisted member of the Royal Army Service Corps/Expeditionary Force Institutes.

2. The expression "a merchant seaman" means—

(*a*) any person employed under a contract of service as master or a member of the crew of any of Her Majesty's ships or of any other British ship, if either—

(i) the contract was entered into in Northern Ireland; or

(ii) it was entered into outside Northern Ireland, and the person had set out from Northern Ireland for the purpose of entering into such contract:

Provided that any such person as is referred to in sub-paragraph (*a*)(ii) shall be treated as a merchant seaman during the period between his setting out from Northern Ireland and his entering into such contract;

(*b*) any person who, having been a person referred to in sub-paragraph (*a*) has not, since last being such a person, ceased to be employed under contracts of service as master or a member of the crew either of one of Her Majesty's ships or of some other British ship:

Provided that a person shall be deemed not to have ceased to be so employed during any period during which he is temporarily prevented from being so employed;

(*c*) any person who having been a person referred to in sub-paragraph (*a*) or (*b*) and having ceased so to be, is proceeding or intending to proceed to Northern Ireland:

Provided that if he fails to proceed to Northern Ireland as soon as reasonably practicable after such cessation he shall not, after such failure, be treated as a merchant seaman by virtue of this sub-paragraph;

(*d*) any person who has set out from Northern Ireland for the purpose of entering into a contract of service as master or a member of the crew of any of Her Majesty's ships or of any other British ship or who, having so set out, has failed to enter into such contract and is proceeding or intending to proceed to Northern Ireland:

Provided that if, having so failed, he does not proceed to Northern Ireland as soon as reasonably practicable after such failure he shall no longer be treated as a merchant seaman by virtue of this sub-paragraph.

3. The expression "a British protected person" means a British protected person within the meaning of the British Nationality Act, 1948(a).

4. The expression "a person under treatment" applies, in respect of such period as the Ministry may allow having regard to the circumstances of the particular case, to a person whose absence from Northern Ireland is temporary and for the specific purpose of being treated for incapacity which commenced before he left Northern Ireland.

SECOND SCHEDULE Regulation 17

Regulations Revoked

Statutory Rules and Orders of Northern Ireland	*Citation*	*Extent of Revocation*
S.R. & O. (N.I.) 1946, No. 25	Family Allowances (Qualifications) Regulations (Northern Ireland), 1946.	The whole of the regulations.
S.R. & O. (N.I.) 1952, No. 171	Family Allowances (Conditions for Increase of Allowance) Regulations (Northern Ireland), 1952.	In paragraph (2) of regulation 1, the definition of "the Qualifications Regulations"; regulation 3 and the Schedule.
S.R. & O. (N.I.) 1952, No. 228	Family Allowances (Qualifications) Amendment Regulations (Northern Ireland), 1952.	The whole of the regulations.
S.R. & O. (N.I.) 1953, No. 107	Family Allowances (Qualifications) Amendment Regulations (Northern Ireland), 1953.	The whole of the regulations.
S.R. & O. (N.I.) 1959, No. 140	Family Allowances (Qualifications) Amendment Regulations (Northern Ireland), 1959.	The whole of the regulations.

EXPLANATORY NOTE

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

These Regulations consolidate the Family Allowances (Qualifications) Regulations (Northern Ireland), 1946, and subsequent amending regulations which are set out in the Second Schedule and are revoked by regulation 17.

No amendments other than those of a drafting or consequential nature have been made.

(a) 11 & 12 Geo. 6. c. 56.