STATUTORY RULES OF NORTHERN IRELAND

1996 No. 622

SOCIAL SECURITY

The Social Security (Child Maintenance Bonus) Regulations (Northern Ireland) 1996

Made - - - -	*31st December 1996*
Coming into operation	*7th April 1997*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 132(4)(*b*) and 171(1) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**1**), sections 5(1)(*q*), 69(8), 74(2) and 165(1), (3) and (4) of the Social Security Administration (Northern Ireland) Act 1992(**2**) and Articles 4 and 19(1) of the Child Support (Northern Ireland) Order 1995(**3**) and of all other powers enabling it in that behalf, by this statutory rule, which contains only regulations made by virtue of, or consequential upon, Article 4 of the Child Support (Northern Ireland) Order 1995, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Social Security (Child Maintenance Bonus) Regulations (Northern Ireland) 1996 and shall come into operation on 7th April 1997.

(2) In these Regulations—

"the Order" means the Child Support (Northern Ireland) Order 1995;

"the Jobseekers Order" means the Jobseekers (Northern Ireland) Order 1995(**4**);

"applicant", except where regulation 8 (retirement) applies, means the person claiming the bonus;

"appropriate office" means an office of the Department;

"benefit week"—

(a) where the relevant benefit is income support, has the meaning it has in the Income Support (General) Regulations (Northern Ireland) 1987(**5**) by virtue of regulation 2(1) of those Regulations; or

(**1**) 1992 c. 7
(**2**) 1992 c. 8
(**3**) S.I. 1995/2702 (N.I. 13)
(**4**) S.I. 1995/2705 (N.I. 15)
(**5**) S.R. 1987 No. 459

(b) where the relevant benefit is a jobseeker's allowance, has the meaning it has in the Jobseeker's Allowance Regulations (Northern Ireland) 1996(**6**) by virtue of regulation 1(2) of those Regulations;

"bonus" means a child maintenance bonus;

"bonus period" comprises the days specified in regulation 4;

"child maintenance" means any of the following payments made on or after 7th April 1997—

(a) child support maintenance;

(b) maintenance paid by an absent parent to a parent with care of a qualifying child under an agreement (whether enforceable or not) between them or by virtue of an order of a court;

(c) maintenance deducted from any benefit payable to an absent parent who is liable to maintain a qualifying child,

but does not include any maintenance paid in respect of a former partner;

"couple" means a married or an unmarried couple;

"jobseeker's allowance" means an income-based jobseeker's allowance as defined in Article 3(4) of the Jobseekers Order;

"partner" means a person, whether an applicant or otherwise,—

(a) is a member of a married or unmarried couple, the other member of that couple;

(b) is married polygamously to two or more members of his household, any such member; or

(c) is a member of a marriage entered into under a law which permits polygamy and either party to the marriage has for the time being any spouse additional to the other party, the other party;

"work condition" means the condition specified at regulation 3(1)(*c*).

(3) Expressions used in these Regulations and in the Child Support (Northern Ireland) Order 1991(**7**) have the same meaning in these Regulations as they have in that Order.

(4) For the purposes of these Regulations, the qualifying benefits are a jobseeker's allowance and income support.

(5) In these Regulations, where—

(a) a payment is made in any benefit week by an absent parent to a person with care;

(b) the absent parent pays both child maintenance and maintenance for the person with care; and

(c) there is no evidence as to which form of maintenance that payment is intended to represent,

the first £5 of any such payment or, where the amount of payment is less than £5, that amount shall be treated as if it was a payment of child maintenance.

(6) For the purposes of these Regulations, child maintenance is treated as payable where it is paid under an agreement which is not enforceable.

(7) Where a person is entitled to a qualifying benefit on any day but no qualifying benefit is payable to him in respect of that day, that person shall be treated for the purposes of these Regulations as not entitled to a qualifying benefit for that day.

(8) The Interpretation Act (Northern Ireland) 1954(**8**) shall apply to these Regulations as it applies to a Measure of the Assembly.

(**6**) S.R. 1996 No. 198
(**7**) S.I. 1991/2628 (N.I. 23)
(**8**) 1954 c. 33 (N.I.)

Application of the Regulations

2.—(1) Subject to paragraph (2), these Regulations apply only in a case where on or after 7th April 1997 an absent parent has paid child maintenance in respect of a qualifying child and that maintenance has been—

(a) taken into account in determining the amount of a qualifying benefit payable to the person with care or the partner of that person; or

(b) retained by the Department in accordance with section 72A(3) of the Administration Act(**9**) (payment of benefit where maintenance payments are collected by the Department).

(2) Regulation 6 (Department to issue estimates) applies also where a child maintenance assessment has been made but no maintenance has been paid.

(3) No day falling before 7th April 1997 shall be taken into account in determining whether any condition specified in these Regulations is satisfied or whether any period specified in these Regulations commenced.

Entitlement to a Bonus

3.—(1) An applicant is entitled to a bonus where—

(a) he has claimed a bonus in accordance with regulation 10 (claiming a bonus);

(b) the claim relates to days falling within a bonus period;

(c) except where paragraph (2) applies, he satisfies the work condition, that is to say, he or his partner takes up or returns to work or increases the number of hours in which in any week he or his partner is engaged in employment or the earnings from an employment in which he or his partner are engaged is increased;

(d) as a result of satisfying the work condition any entitlement to a qualifying benefit in respect of himself and, where he has a partner, his family, ceases;

(e) in a case where the qualifying benefit which ceased—

(i) was income support, the person with care has not reached the day before his 60th birthday;

(ii) was a jobseeker's allowance, the person with care has not reached the day before he attains pensionable age,

at the time the work condition is satisfied; and

(f) the work condition is satisfied within a period of 14 days following the last day in respect of which a qualifying benefit is payable.

(2) A person who is absent from work because of a trade dispute at his place of work and returns to work with the employer he worked for before the dispute began, does not thereby satisfy the requirements of paragraph (1)(*c*).

(3) In paragraph (2), "place of work", in relation to any person, means the premises at which he was employed.

(4) An applicant is also entitled to a bonus where he satisfies the requirements specified in regulation 8 (retirement).

Bonus period

4.—(1) A bonus period comprises only days falling on or after 7th April 1997 on which—

(**9**) Section 72A was inserted by Article 18 of the Child Support (Northern Ireland) Order 1995 (S.I. 1995/2702 (N.I. 13))

(a) the applicant or, where the applicant has a partner, his partner is entitled to, or is treated as entitled to a qualifying benefit whether it is payable or not;

(b) the applicant has residing with him a qualifying child; and

(c) child maintenance is either—

(i) taken into account in determining the amount of the applicant's income for the purposes of the qualifying benefit, or

(ii) retained by the Department in accordance with section 72A(3) of the Administration Act.

(2) Any two or more bonus periods separated by any one connected period shall be treated as one bonus period.

(3) For the purposes of these Regulations, "a connected period" is—

(a) any period of not more than 12 weeks falling between two bonus periods to which paragraph (1) refers;

(b) any period of not more than 12 weeks throughout which—

(i) no qualifying child resides with the applicant, or

(ii) the applicant ceases to be entitled to a qualifying benefit on becoming one of a couple and the couple fail to satisfy conditions of entitlement to a qualifying benefit;

(c) any period throughout which maternity allowance is payable to the applicant; or

(d) any period of not more than 2 years throughout which incapacity benefit, severe disablement allowance or invalid care allowance is payable to the applicant.

(4) In calculating any period for the purposes of paragraph (3) no regard shall be had to any day which falls before 7th April 1997.

(5) Bonus periods separated by two or more connected periods shall not link to form a single bonus period but shall instead remain separate bonus periods.

(6) Where a qualifying child is temporarily absent for a period not exceeding 12 weeks from the home he shares with the applicant, the applicant shall be treated as satisfying the requirements of paragraph (1)(*b*) throughout that absence.

(7) A bonus period which would, but for this paragraph, have continued shall end—

(a) where the applicant or, where the applicant has a partner, his partner, satisfies the work condition and claims a bonus, on the last day of entitlement to a qualifying benefit to which any award made on that claim applies; or

(b) where the person with the care of the child or his partner dies, on the date of death.

Amount payable

5.—(1) The amount of the bonus shall be—

(a) subject to paragraphs (2) to (5), a sum representing the aggregate of—

(i) £5 for each benefit week in the bonus period in which the amount of child maintenance payable was not less than £5, and

(ii) where in any benefit week in the bonus period the amount of child maintenance payable was less than £5, the amount that was payable;

(b) the amount of the child maintenance paid in the bonus period; or

(c) £1,000,

whichever amount is the least.

(2) Where the amount of child maintenance a person was liable to pay in any benefit week in the bonus period was less than £5 but the amount actually paid was higher than the amount he was required to pay, then for the purposes of paragraph (1)(*a*) the weekly amount to be taken into account shall be the amount the person was liable to pay.

(3) So much of any child maintenance paid in excess of the amount either—

(a) declared for the purposes of determining the amount of qualifying benefit payable to the applicant or his partner; or

(b) retained by the Department in accordance with section 72A(3) of the Administration Act,

shall be disregarded in determining the amount payable under paragraph (1).

(4) Where the child maintenance paid is child support maintenance, the amount of child maintenance to be taken into account in accordance with paragraph (1) shall be such amount as may in the particular case be certified by the child support officer.

(5) Where but for this paragraph the amount of bonus payable in accordance with paragraph (1) would be less than £5, the amount of the bonus shall be Nil.

Department to issue estimates

6.—(1) Where it appears to the Department that a person who is in receipt of a qualifying benefit, or the partner of such a person, may satisfy the requirements of regulation 3 (entitlement to a bonus) it may issue to the person in receipt of the qualifying benefit a written statement of the amount the Department estimates may be payable by way of a bonus in his particular case, and may provide such further statements as appear appropriate in the circumstances, stating the amount it estimates may be payable.

(2) The issue by the Department of a statement under paragraph (1) shall not be binding on the adjudication officer when he makes his determination on a claim for a bonus as to—

(a) whether the applicant satisfies the conditions of entitlement to the bonus; and

(b) the amount, if any, payable where the bonus is awarded.

Death of a person with care of a child

7.—(1) In a case where—

(a) the person (A) with care of a child in respect of whom child maintenance is payable dies;

(b) on the date of his death, the person (A) was entitled or, where he has a partner, his partner was entitled to a qualifying benefit or had been so entitled within the 12 weeks ending on the date of his death;

(c) after the death, another person (B), who is a close relative of the person (A) and who was not before the death a person with the care of the child, becomes the person with care; and

(d) that other person was entitled or, where the other person has a partner, the other person or his partner was entitled to a qualifying benefit on the day the person (A) died or becomes entitled to a qualifying benefit within 12 weeks of the day on which the person (A) was last entitled to a qualifying benefit,

then any weeks forming part of the bonus period of the person (A) which was current at the date of his death or within 12 weeks of the date on which he died shall be treated as part of the bonus period of the person (B) to the extent that those weeks are not otherwise a part of his bonus period.

(2) In this regulation, "close relative" means a parent, parent-in-law, son, son-in-law, daughter, daughter-in-law, step-parent, step-son, step-daughter, brother, sister, or the spouse of any of the preceding persons or, if that person is one of an unmarried couple, the other member of that couple.