1985 No. 124

SOCIAL SECURITY

The Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1985

Made	*29th May 1985*
Coming into operation . . .	*29th July 1985*

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SCHEDULE 1—Benefits under the Social Security Act, claims for which may be interchanged with a claim to child benefit

SCHEDULE 2—Revocations

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 8(1) and (3) to (5), 9(1)(*b*), 13(2), 22(1) and (2)(*b*) and 24(1)(*b*) of the Child Benefit (Northern Ireland) Order 1975(**a**) and of all other powers enabling it in that behalf, and for the purposes only of consolidating the regulations revoked by these regulations, hereby makes the following regulations:

PART I
GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1985 and shall come into operation on 29th July 1985.

(2) In these regulations—

"the Order" means the Child Benefit (Northern Ireland) Order 1975;

"benefit" means child benefit under the Order;

"claim" means a claim to benefit and "claiming" shall be construed accordingly;

"determining authority" means, as the case may require, the Chief or any other adjudication officer, a social security appeal tribunal, the Chief or any other Social Security Commissioner or a Tribunal of 2 or 3 such Commissioners constituted in accordance with section 116 of the Social Security Act, as applied to appeals concerning child benefit by regulation 72(1)(*a*) of the Social Security (Adjudication) Regulations (Northern Ireland) 1984(**b**);

"increase" means an increase in the weekly rate of benefit under regulation 2(2) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations (Northern Ireland) 1976(**c**);

"instrument of payment" means a serial order or any other instrument whatsoever which is intended to enable a person to obtain payment of benefit;

"serial order" means one of a series of orders for the payment of sums on account of benefit which is or has been contained in a book of such orders.

(3) A separate claim shall be required for an increase, except that where a person claims benefit other than an increase in respect of a child having previously claimed for an increase in respect of that child his claim for an increase shall be regarded as a claim to benefit including an increase.

PART II
CLAIMS

Manner in which claims are to be made

2.—(1) Every claim shall be made in writing to the Department on a form approved by the Department or in such other manner, being in writing, as the Department may, in its discretion, accept as sufficient in the circumstances of any particular case or class of cases, and shall be delivered or sent to an office of the Department.

(**a**) S.I. 1975/1504 (N.I. 16); Article 13(2) was amended by Article 4 of, and paragraph 4(*b*) of the Schedule to, the Social Security (Northern Ireland) Order 1981 (S.I. 1981/1118 (N.I. 25))

(**b**) S.R. 1984 No. 144; to which there are amendments not relevant to the subject matter of these regulations

(**c**) S.R. 1976 No. 223; relevant amending regulations are S.R. 1980 No. 37 and S.R. 1984 No. 276

(2) The date on which a claim is made shall be the date on which it is received in an office of the Department (hereafter in this paragraph referred to as "the relevant date"); so however that if the Department is aware that a claim which has been sent by post has not been delivered in the ordinary course of post it may treat the claim as having been made on a date earlier than the relevant date, being, whichever is the later, the date on which the claim would have been made had it been delivered in the ordinary course of post or a date 13 weeks before the relevant date.

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

(4) If a claim on the form approved is defective at the date when it is received at an office of the Department or has been made otherwise than on the form approved for the time being, the Department may, in its discretion, refer the claim to the person making it or, as the case may be, supply him with the approved form, and if the form is returned properly completed within one month from the date on which it is so referred or supplied the Department shall treat the claim as if it had been duly made in the first instance.

(5) A person who has made a claim may amend his claim at any time before a determination has been made on it by a notice in writing delivered or sent to an office of the Department and any claim so amended may be treated as if it had been made as so amended in the first instance.

(6) A person who has made a claim may withdraw it at any time before a determination has been made on it by a notice in writing delivered or sent to an office of the Department and the said notice shall have effect when it is received in the Department.

(7) Any reference in the Order or in regulations to the date on which a claim is made shall, in the case of a claim which is treated—

(*a*) as having been made on a date earlier than the relevant date under paragraph (2), be construed as a reference to that earlier date; and

(*b*) as if it had been duly made in the first instance under paragraph (4) or (5), be construed as a reference to the date on which it was first received in an office of the Department.

Information in support of claim

3.—(1) Every person making a claim shall furnish such certificates, documents, information and evidence in connection with the claim as may be required by the Department and, if reasonably so required, shall for that purpose attend at such office of the Department or other place as the Department may direct.

(2) Where, in the case of a husband and wife residing together, a claim is made by the husband and not by the wife, the Department may require the husband to furnish it with a written statement, signed by the wife, that she does not wish to make a claim.

Advance claims and awards

4.—(1) If on the date on which a claim is made by a person in respect of a child that person does not satisfy the requirements for entitlement to benefit in respect of that child but the determining authority is of the opinion that that person is likely to satisfy those requirements for a period beginning with a day (hereafter in this regulation referred to as "the relevant day") not more than 56 days after the date on which the claim is made, then that determining authority may—

(*a*) treat the claim as if made for a period beginning with the relevant day; and

(*b*) award benefit accordingly, subject to the condition that the person satisfies the requirements for entitlement when benefit becomes payable under the award.

(2) An award under paragraph (1)(*b*) may be reviewed by the determining authority if the requirements for entitlement are found not to have been satisfied on the relevant day.

Interchange with claims for benefit under the Social Security Act

5.—(1) Where it appears that a person who in accordance with these regulations has claimed child benefit in respect of a child may be entitled alternatively or in addition to any benefit specified in Schedule 1 in respect of the same child, the Department may, in its discretion, treat the claim to child benefit as a claim by that person for the benefit in question specified in the said Schedule.

(2) Where it appears that a person who in accordance with regulations made under the Social Security Act has claimed any benefit specified in the said Schedule in respect of a child may be entitled alternatively or in addition to child benefit in respect of the same child, the Department may, in its discretion, treat the claim for the benefit in question as a claim by that person to child benefit.

PART III

PAYMENTS

Payment of benefit

6.—(1) Subject to the provisions of this regulation and of regulations 7 and 8, benefit shall be payable as follows—

(*a*) in a case where the person entitled to benefit elects to receive payment weekly, in accordance with the provisions of regulation 8, benefit shall be payable weekly from the first convenient date after the election has been made;

(*b*) in any other case benefit shall be payable in the last week of each successive period of 4 weeks of the period of entitlement.

(2) Subject to paragraph (3) and regulation 7(3), benefit payable weekly or four-weekly shall be payable on Mondays or Tuesdays (as the Department may in its discretion in any case determine) by serial orders.

(3) In such cases or class of cases as the Department may, in its discretion, determine, benefit shall be payable otherwise than—

(*a*) by means of serial orders; or

(*b*) on Mondays or Tuesdays; or

(*c*) at weekly or four-weekly intervals,

and where benefit is being paid at four-weekly intervals in accordance with paragraph (1)(*b*) the Department shall arrange for it to be paid weekly if satisfied that payment at intervals of 4 weeks is causing hardship.

(4) The Department shall take steps to notify persons to whom benefit is payable of the arrangements it has made for payment so far as those arrangements affect such persons.

(5) Instruments of payment and books of serial orders issued by the Department shall remain its property; and any person having such an instrument of payment or book of serial orders shall, on ceasing to be entitled to the benefit to which such instrument or book relates or when so required by the Department, deliver the instrument or book to the Department or to such person as it may direct.

Payment of benefit by direct credit transfer

7.—(1) Subject to the provisions of this regulation, benefit may, on the application of the person claiming, or entitled to it, and with the consent of the Department, be paid by way of automated or other direct credit transfer into a bank or other account—

(*a*) in the name of the person entitled to benefit, or his spouse, or a person acting on his behalf; or

(*b*) in the joint names of the person entitled to benefit and his spouse, or the person entitled to benefit and a person acting on his behalf.

(2) An application for the benefit to be paid in accordance with paragraph (1)—

(*a*) shall be in writing on a form approved for the purpose by the Department or in such other manner, being in writing, as it may accept as sufficient in the circumstances; and

(*b*) shall contain a statement or be accompanied by a written statement made by the applicant declaring that he has read and understood the conditions applicable to payment of benefit in accordance with this regulation and in particular that he has understood the effect that paragraph (6) would have in the event of any overpayment of benefit.

(3) Benefit shall be paid in accordance with paragraph (1) within 7 days of the last day of each successive period of entitlement of 4 weeks.

(4) In respect of benefit which is the subject of an arrangement for payment under this regulation, the Department may make a particular payment by credit transfer otherwise than is provided by paragraph (3) if it appears to it appropriate to do so for the purpose of—

(*a*) paying any arrears of benefit; or

(*b*) making a payment in respect of a terminal period of an award, or of the period covered by the arrangement, where that terminal period is one of less than 4 weeks; or

for any similar purpose.

(5) The arrangement for benefit to be payable in accordance with this regulation may be terminated—

(*a*) by the person entitled to benefit or a person acting on his behalf by notice in writing delivered or sent to an office of the Department; or

(*b*) by the Department if the arrangement seems to it to be no longer appropriate to the circumstances of the particular case.

(6) In relation to payments of benefit which in pursuance of this regulation have been credited to a bank or other account under an arrangement made with the agreement of the person entitled to benefit, if in respect of that arrangement he made a statement in accordance with paragraph (2)(*b*) that he had read and understood the conditions applicable to payment of benefit in accordance with this regulation, section 119 of the Social Security Act(**a**), as applied to child benefit by Article 10(1) of the Order, shall have effect as if there were omitted from the said section 119 (repayment of overpaid benefit not required where due care and diligence is shown)—

(*a*) subsection (2); and

(*b*) the words in subsection (2A) from "unless it is shown" to the end of that subsection.

(7) Where the Department certifies that it appears to it—

(*a*) that an overpayment or any specified part thereof is not materially due to the arrangement for benefit to be payable provided for in this regulation; or

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(**a**) Section 119 was amended by Article 23(1) of, and paragraph 34 of Schedule 4 to, the Child Benefit (Northern Ireland) Order 1975; Articles 9 and 16 of, and paragraph 8 of Schedule 3 to, the Social Security (Northern Ireland) Order 1979 (S.I. 1979/396 (N.I. 5)); Article 3 of, and paragraph 12 of Schedule 1 to, the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) and Article 34(2) of the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16))