1980 No. 144

SOCIAL SECURITY

The Social Security Benefit (Dependency) (Amendment) Regulations (Northern Ireland) 1980

Made	*30th April 1980*
Coming into operation . . .	*2nd June 1980*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 44(3)(*c*), 49 and 66(1)(*d*) of, and Schedule 17 to, the Social Security (Northern Ireland) Act 1975(**a**) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security Benefit (Dependency) (Amendment) Regulations (Northern Ireland) 1980 and shall come into operation on 2nd June 1980.

(2) In these regulations "the principal regulations" means the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977(**b**).

Insertion of new regulations 4A and 4B into Part I of the principal regulations

2. In Part I (General) of the principal regulations immediately after regulation 4 there shall be inserted the following new regulations:—

"*Circumstances in which a person who is not entitled to child benefit is to be treated as if he were so entitled*

4A.—(1) For the purposes of section 38 (guardian's allowance) or sections 41, 44(3)(*c*), 46(2), 49, 64(1) and 66(1)(*d*) (increase of benefit in respect of dependent children, and female persons having care of dependent children) a person shall be treated as if he were entitled to child benefit in respect of a child for any period throughout which—

(*a*) child benefit has been awarded to a parent of that child with whom that child is living and with whom that person is residing and either—

(i) the child is being wholly or mainly maintained by that person; or

(ii) that person is also a parent of the child; or

(*b*) he, or his spouse with whom he is residing, would have been entitled to child benefit in respect of that child had the child been born at the end of the week immediately preceding the week in which birth occurred.

(2) For the purposes of sections 41, 44(3)(*c*), 46(2), 49(*a*), 64(1) and 66(1)(*d*), where a beneficiary is a man, he shall be treated as if he were entitled to child benefit in respect of any child ordinarily not living with him of whom he is a parent if—

(*a*) the person who is entitled to child benefit in respect of that child is that man's wife or former wife and is also a parent of that child; and

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(**a**) 1975 c. 15; as amended by Article 23(1) of, and paras. 17(*b*) and 24 of Sch. 4 to, S.I. 1975/1504 (N.I. 16)

(**b**) S.R. 1977 No. 74 (I, p. 258); to which there are amendments not relevant to the subject of these regulations

(*b*) he is contributing to the cost of providing for that child at a rate which is at least equal to the lowest amount at which any benefit specified in the second column of Part IV of Schedule 4 to the Act is payable.

(3) For the purpose of determining whether a person is entitled to a guardian's allowance under section 38, where in respect of a child that allowance is payable to a person for a continuous period of 7 days and would have been payable to that person for the immediately preceding 7 days had he been entitled to child benefit in respect of that child for an earlier week, he shall be treated as if he were entitled to child benefit in respect of that child for that earlier week.

(4) If for any period a person who is in Northern Ireland could have been entitled to receive payment of an amount by way of a benefit or allowance or an increase of a benefit or an allowance under the Act in respect of a child or a female person who has the care of a child but for the fact that in pursuance of any agreement with the government of a country outside the United Kingdom he, or his wife who is residing with him, is entitled in respect of the child in question to the family benefits of that country and is not entitled to child benefit, he shall for the purposes of entitlement to the said payment be treated as if he were entitled to child benefit for the period in question.

(5) The expression "earlier week" in paragraph (3) means the week immediately preceding the first week for which the person referred to in that paragraph was entitled to child benefit in respect of the child referred to in that paragraph.

(6) For the purposes of paragraph (1) the word "week" has the meaning assigned to it by Article 2(2) of the Child Benefit Order, and for the purposes of paragraphs (1) and (2) a child shall not be regarded as living with a person unless he can be so regarded for the purposes of Article 5 (meaning of "person responsible for child") of the said Order.

Circumstances in which a person entitled to child benefit is to be treated as if he were not so entitled

4B.—(1) For the purposes of section 31 (child's special allowance), section 38 (guardian's allowance) or sections 41, 44(3)(*c*), 46(2), 49, 64(1) and 66(1)(*d*) (increase of benefit in respect of dependent children, and female persons having care of dependent children) a person who is entitled to child benefit in respect of a child shall be treated as if he were not so entitled for—

(*a*) any period throughout which—

(i) that person, not being a parent of the child, does not fall to be treated as responsible for the child under Article 5(1)(*a*) of the Child Benefit Order, and

(ii) a parent of that child falls to be treated as responsible for the child under the said Article 5(1)(*a*); or

(*b*) any period throughout which—

(i) that person, not being a parent of that child, falls to be treated as responsible for the child under Article 5(1)(*a*) of the Child Benefit Order, and

(ii) a parent of that child also falls to be treated as responsible for the child under the said Article 5(1)(*a*); or

(*c*) any day following the day on which that child died.

(2) Sub-paragraph (*b*) of paragraph (1) shall not apply in the case of a person who is wholly or mainly maintaining the child referred to in that sub-paragraph.".

Revocations

3. Regulations 6 and 7 of the principal regulations (circumstances in which a person is to be treated as if he were or, as the case may be, were not entitled to child