1977 No. 74

SOCIAL SECURITY

The Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977

Made . . . . . 23*rd March* 1977

Coming into operation . . . . 4*th April* 1977

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The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 33(2) and (3), 44, 46, 47, 49, 66 and 84 of, and Schedule 17 to, the Social Security (Northern Ireland) Act 1975(**a**), as amended in the case of the said sections 44, 46, 47 and 66 and Schedule 17 by Article 23(1) of, and Schedule 4 to, the Child Benefit (Northern Ireland) Order 1975(**b**), and Article 22(1) of the Child Benefit (Northern Ireland) Order 1975, and of all other powers enabling it in that behalf, hereby makes the following regulations:

(**a**) 1975 c. 15 (**b**) S.I. 1975/1504 (N.I. 16)

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977 and shall come into operation on 4th April 1977, immediately after the coming into operation of the Social Security (Child Benefit Consequential) Regulations (Northern Ireland) 1977(c).

(2) In these regulations, unless the context otherwise requires—

"the Act" means the Social Security (Northern Ireland) Act 1975;

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

"child benefit" means benefit under Part II of the Child Benefit Order;

"entitled to child benefit" includes treated as so entitled;

"parent" has the meaning assigned to it by Article 2(4) of the Child Benefit Order;

"the determining authority" means, as the case may require, an insurance officer appointed under section 97(1) of the Act, a local tribunal constituted under section 97(2) of the Act, or a Commissioner;

"the standard rate of increase" means the amount specified in Part IV or Part V of Schedule 4 to the Act as the amount of an increase for an adult dependant of the benefit in question,

and other expressions have the same meanings as in the Act.

(3)(*a*) Regulations 2, 3, 4, 5, 9(1) and (2)(*d*), 10 and 11(1) shall apply to non-contributory invalidity pension as they apply to an invalidity pension;

(*b*) regulations 2(2) and (3), 4 and 5(1) shall, with any necessary modifications, apply to invalid care allowance as they apply to an invalidity pension.

(4) Unless the context otherwise requires, any reference in these regulations to—

(*a*) a numbered section is to the section of the Act bearing that number;

(*b*) a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number;

(*c*) any provision made by or contained in any enactment or instrument shall be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which it re-enacts or replaces, or which may re-enact or replace it, with or without modification.

(5) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(d) shall apply in relation to this statutory rule and in relation to any revocation effected by it as if this statutory rule, the regulations revoked by it and any regulations revoked by the regulations so revoked were Acts of Parliament, and as if each revocation were a repeal.

(c) S.R. 1977 No. 73 (d) 1889 c. 63

Provisions as to maintenance for the purposes of increase of benefit in respect of dependants

2.—(1) Subject to paragraph (2), a beneficiary shall not for the purposes of the Act be deemed to be wholly or mainly maintaining another person unless the beneficiary—

(*a*) when unemployed, or incapable of work, or, as the case may be, retired from regular employment, contributes towards the maintenance of that person an amount not less than the amount of increase of benefit received in respect of that person; and

(*b*) when in employment, or not incapable of work, or, as the case may be, not so retired (except in a case where the dependency did not arise until after that time) contributed more than half of the actual cost of maintenance of that person.

(2) In a case where—

(*a*) a person is partly maintained by each of two or more other persons each of whom could be entitled to an increase of benefit under the Act in respect of that person if he were wholly or mainly maintaining that person, and

(*b*) the contributions made by those other persons towards the maintenance of that person amount in the aggregate to sums which, if they were contributed by one of them, would be sufficient to satisfy the foregoing requirements of this regulation,

that person shall for purposes of the Act be deemed to be wholly or mainly maintained by that one of the said other persons who—

(i) makes the larger or largest contributions to the maintenance of that person, or

(ii) in a case where no person makes the larger or largest contributions as aforesaid, is the elder or eldest of the said other persons, or

(iii) in any case, is a person designated in that behalf by a notice in writing signed by a majority of the said other persons and addressed to the Department,

so long as that one of the said other persons continues to be entitled to benefit under the Act and to satisfy the condition contained in paragraph (1)(*a*).

(3) A notice and the designation contained therein given under the foregoing paragraph may be revoked at any time by a fresh notice signed by a majority of such persons and another one of their number may be designated thereby, and accordingly the provisions of that paragraph shall apply to the one so last designated.

Allocation of contributions for wife or children

3.—(1) Subject to the provisions of this regulation, any sum or sums paid by a person by way of contribution towards either or both of the following, that is to say the maintenance of his wife and the cost of providing for one or more children to whom this regulation refers, shall be treated for the purposes of section 31(*c*)(i), 43(1)(*b*), 44(1)(*a*), 45(2)(*b*), 65(1), 66(1)(*a*) or 70(4) (contributions as to maintenance) as such contributions of such respective amounts equal in the aggregate to the said sum or sums, in respect of such of the persons hereinafter mentioned, that is to say, his wife or any child or children to whom this regulation refers, as may be determined by the determining authority so as to secure as large a payment as possible by way of benefit in respect of dependants.

(2) A sum paid by way of contribution towards the maintenance of a wife shall not be treated by virtue of this regulation as a sum paid by way of contribution towards the cost of providing for a child or children, and a sum paid by way of contribution towards the cost of providing for a child or children shall not be so treated as a sum paid by way of contribution towards the maintenance of a wife, unless in either case the wife is entitled to child benefit in respect of the child or children.

(3) Except for the purposes of section 31(*c*)(i) (child's special allowance), the children to whom this regulation refers are any children in respect of whom, in the period for which the sum in question is paid by the person, that person is entitled to child benefit or could have been so entitled by virtue of regulations 6 and 7 had he contributed to the cost of providing for the child at a sufficient weekly rate.

(4) For the purposes of section 31(*c*)(i)—

(*a*) the children to whom this regulation refers are any such children to whom section 31(*b*) applies;

(*b*) a determination made under paragraph (1) in order to ascertain the weekly rate at which the husband had before his death been contributing to the cost of providing for a child may be varied on review from time to time by the determining authority so often as may be necessary to secure as large a payment as possible by way of child's special allowance, so however that no such review shall affect entitlement in respect of any period before the date of the review; and

(*c*) the condition in paragraph (2) shall be deemed to be satisfied if it would have been satisfied but for the fact that the child was not then in Northern Ireland.

Deeming benefit under the Act abated under section 17(1A) *of the Supplementary Benefits &c. Act (Northern Ireland)* 1966 *to be a contribution for the maintenance of children or adult dependants*

4. Where for any period a person (in this regulation referred to as A) is entitled to, or to an increase in the amount of, any benefit mentioned in section 17(1)(*a*) of the Supplementary Benefits &c. Act (Northern Ireland) 1966(**e**), as amended(**f**) (benefit (other than a maternity grant or a death grant) under Part II of the Act) in respect of another person (in this regulation referred to as B) and the amount of, or of the increase in, any such benefit is abated under the provisions of section 17(1A)(**g**) of the said Act of 1966 (further provision for preventing duplication of supplementary and other benefits), then in determining for the purposes of the Act whether A is wholly or mainly maintaining or is contributing at any weekly rate to the maintenance of, or is or has been contributing at any weekly rate to the cost of providing for, B, the amount by which such benefit for any week has been so abated shall be deemed to be a contribution of that amount for that week made by A for the maintenance of B.

(e) 1966 c. 28 (N.I.)
(f) Substituted by para. 95 of Sch. 2 to Social Security (Consequential Provisions) Act 1975 (1975 c. 18)
(g) Added by s. 3 of Social Security Act (Northern Ireland) 1971 (1971 c. 28 (N.I.))