1977 No. 73

SOCIAL SECURITY

The Social Security (Child Benefit Consequential) Regulations (Northern Ireland) 1977

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

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

ARRANGEMENT OF REGULATIONS

Regulation

1 Citation, commencement and interpretation
2 Circumstances in which a person who is not entitled to child benefit is to be treated as if he were so entitled
3 Circumstances in which a person entitled to child benefit is to be treated as if he were not so entitled
4 Amendment of the Social Security (Widow's Benefit and Retirement Pensions) (Northern Ireland) Regulations 1975
5 Amendment of the Social Security (General Benefit) (Northern Ireland) Regulations 1975
6 Amendment of the Social Security (Child's Special Allowance) Regulations (Northern Ireland) 1975
7 Amendment of the Social Security (Industrial Injuries) (Benefit) Regulations (Northern Ireland) 1976
8 Amendment of the National Insurance (Industrial Injuries) (Prescribed Diseases) Regulations (Northern Ireland) 1960
9 Amendment of the Social Security (Guardian's Allowances) Regulations (Northern Ireland) 1975
10 Amendment of the Social Security (Overlapping Benefits) Regulations (Northern Ireland) 1975
11 Amendment of the Social Security (Hospital In-Patients) Regulations (Northern Ireland) 1975
12 Amendment of the Social Security (Claims and Payments) Regulations (Northern Ireland) 1975
13 Amendment of the Social Security Benefit (Persons Abroad) Regulations (Northern Ireland) 1975
14 Amendment of the Social Security (Attendance Allowance) Regulations (Northern Ireland) 1975
15 Amendment of the Social Security (Non-Contributory Invalidity Pension) Regulations (Northern Ireland) 1975
16 Amendment of the Social Security (Mobility Allowance) Regulations (Northern Ireland) 1975
17 Amendment of the Social Security (Invalid Care Allowance) Regulations (Northern Ireland) 1976
18 Transitional provision as respects conditions related to the death of a person
19 Transitional provision as respects preservation of entitlement to benefit in payment before 4th April 1977 for a child dependant
20 Transitory provision
21 Revocations

SCHEDULE — Regulations revoked

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 31, 32(4), 35(1) and (6), 36(3), 37(4), 37A(1), 38, 44, 46, 49, 56, 66, 68, 70, 77, 79(5), 81(4)(*b*), 82(5), 83, 84(1) and (4), 85, 86, 119(3) and 126 of, and paragraph 1 of Schedule 9 and Schedule 17 to, the Social Security (Northern Ireland) Act 1975(**a**), as amended in the case of the said sections 31, 38, 44, 46, 56, 66, 68, 70, 86 and 119 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:

Citation, commencement and interpretation

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

(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,

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

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

(*a*) a numbered section is a reference 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.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889(**c**) 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.

(a) 1975 c. 15
(c) 1889 c. 63
(b) S.I. 1975/1504 (N.I. 16)

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

2.—(1) For the purposes of section 38 (guardian's allowance) or sections 41, 49 and 64(1) (benefit for beneficiary's 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 section 41, 49(*a*) or 64(1), where a beneficiary is a man, he shall be treated as if he were entitled to child benefit in respect of any child 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

(*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 column (2) 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 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 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

3.—(1) For the purposes of section 31 (child's special allowance), section 38 (guardian's allowance) or sections 41, 49 and 64(1) (benefit for beneficiary's

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.

Amendment of the Social Security (Widow's Benefit and Retirement Pensions) (Northern Ireland) Regulations 1975

4. In the Social Security (Widow's Benefit and Retirement Pensions) (Northern Ireland) Regulations 1975(**d**), as amended(**e**), after regulation 13 there shall be inserted the following regulation:

"Provision in relation to entitlement to child benefit for the purposes of a widowed mother's allowance

13A.—(1) For the purpose of determining whether a woman who has been widowed satisfies the requirements of section 25(1)(*a*) of the Social Security (Northern Ireland) Act 1975(**f**) (requirements relating to entitlement to a widowed mother's allowance under section 25) but for that purpose only—

(*a*) any person under the age of 19 residing with the widow shall be deemed to be a child falling within section 25(2) of the said Act if the requirement in section 25(2)(*a*) thereof is satisfied in his case, or if the requirement in section 25(2)(*b*) or (*c*) thereof is so satisfied, or could have been so satisfied had he, immediately before the death of the widow's late husband, been under the age of 16 or not absent from Northern Ireland; and

(*b*) a widow shall be treated as entitled to child benefit in respect of any person deemed in accordance with sub-paragraph (*a*) of this paragraph to be a child falling within the said section 25(2).

(2) In determining whether a woman who has been more than once married and who was not residing with her late husband immediately before his death is entitled to a widowed mother's allowance under section 25 of the Social Security (Northern Ireland) Act 1975, her late husband shall, for the purposes of section 25(2)(*b*) of that Act, be treated as having been entitled to child benefit in respect of any child in respect of whom—

(**d**) S.R. 1975 No. 12 (I, p. 47)
(**e**) There is no amendment relevant to the subject matter of these regulations.
(**f**) 1975 c. 15

(*a*) a previous husband of that woman by a marriage which ended with that husband's death was, immediately before his death, entitled or treated as entitled to child benefit; and

(*b*) that woman was entitled or treated as entitled to child benefit immediately before the death of her late husband.

(3) For the purposes of sub-paragraph (*a*) or (*b*) of paragraph (2), if the death there referred to occurred before 4th April 1977 the previous husband or, as the case may be, the woman, shall be treated as entitled to child benefit in respect of the child in question if he or she satisfied the relevant requirement in section 25(2)(*c*) of the Social Security (Northern Ireland) Act 1975 as originally enacted.

(4) In this regulation the expression 'child benefit' means benefit under Part II of the Child Benefit (Northern Ireland) Order 1975(**g**).".

Amendment of the Social Security (General Benefit) (Northern Ireland) Regulations 1975

5.—(1) The Social Security (General Benefit) (Northern Ireland) Regulations 1975(**h**), as amended(**i**), shall be further amended in accordance with the following provisions.

(2) In paragraph (2) of regulation 1 (interpretation)—

(*a*) after the definition of "the 1966 Act" there shall be inserted the following definitions:

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

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

(*b*) after the definition of "the Department" there shall be inserted the following definitions:

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

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

(3) In regulation 3 (increase of certain benefits for female person having care of child)—

(*a*) in paragraph (1), for the words from "section 34(3)(*c*)" to the end of the paragraph there shall be substituted "section 44(3)(*c*) of the 1975 Act (increase of unemployment or sickness benefit or a maternity allowance in respect of a female person, not being a child, who has the care of a child or children in respect of whom the beneficiary is entitled to child benefit).";

(*b*) in paragraph (2)(*a*), for "of the beneficiary's family as specified in section 34(3)(*c*)" there shall be substituted "as specified in the said section 44(3)(*c*)";

(*c*) in paragraph (2)(*d*), for "of the beneficiary's family" there shall be substituted "in respect of whom the beneficiary is entitled to child benefit" and for "34(1)" there shall be substituted "44(1) of the 1975 Act";

(**g**) S.I. 1975/1504 (N.I. 16)
(**h**) S.R. 1975 No. 26 (I, p. 125)
(**i**) The relevant amending regulation is S.R. 1975 No. 357 (II, p. 1765).
(**j**) 1975 c. 15
(**k**) S.I. 1975/1504 (N.I. 16)