

1978 No. 106

SOCIAL SECURITY

**The Child Benefit (Miscellaneous Amendments) Regulations
(Northern Ireland) 1978**

Made 17th April 1978

Coming into operation 5th May 1978

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 2(3), (5) and (6), 8(1) and 9(1) of, and paragraph 1 of Schedule 1 to, the Child Benefit (Northern Ireland) Order 1975(a) and section 119(3) of the Social Security (Northern Ireland) Act 1975(b) as applied by Article 10(1) of that Order, 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 Child Benefit (Miscellaneous Amendments) Regulations (Northern Ireland) 1978 and shall come into operation on 5th May 1978.

(2) In these regulations—

“the Determination Regulations” means the Child Benefit (Determination of Claims and Questions) Regulations (Northern Ireland) 1976(c); and

“the General Regulations” means the Child Benefit (General) Regulations (Northern Ireland) 1976(d).

Amendment of the Determination Regulations

2.—(1) In regulation 1(2) of the Determination Regulations (interpretation) there shall be inserted in the definition of the expression “special question” immediately after “Article 9(2) of the Order” a comma followed by “any question whether an establishment is a recognised educational establishment as defined in Article 2(2) of the Order”.

(2) In regulation 4 of the Determination Regulations (appeal to local tribunal) for “after the date of the decision” in paragraph (9) there shall be substituted “after the date on which the claimant is given notice in writing of the decision”.

(3) In regulation 18 of the Determination Regulations (review of decisions involving payment of benefit) paragraph (2) shall be amended by making all that paragraph after “For the purposes of this regulation” into a sub-paragraph (a) and adding at the end of that sub-paragraph the following sub-paragraph—

“(b) the date of an application for review under regulation 8(3) shall be the date (hereafter in this sub-paragraph referred to as ‘the relevant date’) on which it is received in an office of the Department so, however, that if the Department accepts that an application which has

(a) S.I. 1975/1504 (N.I. 16)

(b) 1975 c. 15

(c) S.R. 1976 No. 225

(d) S.R. 1976 No. 226

been sent by post has not been delivered in the ordinary course of post and gives a direction accordingly, the date of the application shall be a date earlier than the relevant date, being, whichever is the later, the date of the application had it been delivered in the ordinary course of post or a date 13 weeks before the relevant date.”

Amendment of the Claims and Payments Regulations

3. In the Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1976(e) for regulation 1(3) (separate claim required for an increase) there shall be substituted the following—

“(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.”

Amendment of the General Regulations

4.—(1) For regulation 10 of the General Regulations there shall be substituted the following regulation—

“Circumstances in which persons absent from one another are or are not to be treated as residing together

10.—(1) Where a person is married, he and his spouse shall be treated for the purposes of the Order as residing together during any period of absence the one from the other falling before the date in that period of absence on which—

- (a) they are separated under an order of a court of competent jurisdiction or deed of separation; or
- (b) they have been absent the one from the other for at least 91 consecutive days,

and, for any part of that period of absence from one another from the date on which they are separated as specified in sub-paragraph (a) or have already been absent from one another as specified in sub-paragraph (b), the spouses shall be treated for the purposes of the Order as not residing together where such absence is likely to be permanent but as residing together where such absence is not likely to be permanent.

(2) Spouses shall be treated as residing together for the purposes of the Order during any period in which any absence the one from the other is by reason only of the fact that either of them is, or they both are, undergoing medical or other treatment as an in-patient in a hospital or similar institution whether such absence is temporary or not.

(3) Where two persons are parents of a child but not husband and wife they shall be treated as residing together for the purposes of the Order during any period of temporary absence the one from the other where they would be so treated but for such temporary absence.”

(2) In regulation 15 of the General Regulations (children in detention, care, etc.) for “For the purposes of” at the beginning of paragraph (1) there shall be substituted “In its application to any case to which there also applies”.

(3) In regulation 16 of the General Regulations (right to benefit of voluntary organisations) paragraph (2) shall be amended by the omission of "which", and by the substitution for "does not last", in both places where those words occur, of "until such absence has lasted".

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 17th April 1978.

(L.S.)

C. G. Oakes
Senior Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport.)

These regulations amend the Child Benefit (Determination of Claims and Questions) Regulations (Northern Ireland) 1976 so as to correct an omission from the definition of "special question", so as to relate the time for appeal from the decision of an insurance officer to the date when that decision is notified and so as to provide for identifying the date of an application for review of a decision (Regulation 2). The regulations also amend the Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1976 so as to allow a claim to an increase of benefit to be treated, in certain circumstances, as a claim for the whole child benefit (Regulation 3) and they amend provision made by the Child Benefit (General) Regulations (Northern Ireland) 1976 as to circumstances in which persons are or are not to be treated for the purposes of the Child Benefit (Northern Ireland) Order 1975 as residing together and so as to secure that child benefit may be payable in certain cases where a child in care is home for part of a week or a child living with a voluntary organisation is temporarily absent (Regulation 4).