

1987 No. 129

SOCIAL SECURITY

**The Social Security Benefit (Dependency)
(Amendment) Regulations (Northern Ireland) 1987**

Made 24th March 1987

Coming into operation 6th April 1987

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by sections 49 and 84(1) 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) 1987 and shall come into operation on 6th April 1987.

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

Amendment of regulation 4B of the principal regulations

2. After paragraph (2) of regulation 4B of the principal regulations (circumstances in which a person entitled to child benefit is to be treated as if he were not so entitled) there shall be inserted the following paragraph—

“(3) For the purposes of sections 31(b) (child’s special allowance), 38(1) (guardian’s allowance), 41, 44(3)(c), 46(2), 49, 64(1) and 66(1)(d) (increase of benefit in respect of dependent children and persons having care of dependent children) and 70(1)(a)(ii)(c) (industrial death benefit) a person who is entitled to child benefit in respect of a child shall be treated as not so entitled for any period for which that benefit is not payable by virtue of any of the provisions of regulations 7 (circumstances in which a

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- (a) 1975 c. 15; section 49 was amended by paragraph 2 of Schedule 2 to the Health and Social Security (Northern Ireland) Order 1984 (S.I. 1984/1158 (N.I. 8)) and the definition of “Entitled to child benefit” was inserted in Schedule 17 by paragraph 37 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975 (S.I. 1975/1504 (N.I. 16))
- (b) S.R. 1977 No. 74; the relevant amending regulations are S.R. 1980 No. 144, S.R. 1983 No. 193, S.R. 1984 No. 373, S.R. 1984 No. 382 and S.R. 1985 No. 300
- (c) Section 31(b) was substituted by paragraph 11 of Schedule 4 to the Child Benefit (Northern Ireland) Order 1975 and sections 38(1), 41, 44(3)(c), 46(2), 64(1) and 66(1)(d) were amended by paragraphs 13(a), 14, 17(b), 19, 22(a) and 24 respectively of Schedule 4 to that Order. Sections 44(3)(c), 46(2) and 66(1)(d) were also amended by paragraph 4 of Schedule 1 to the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) and section 41 was also amended by Part II of Schedule 4 to that Order. Section 64(1) was also amended by Schedule 5 to the Social Security (Northern Ireland) Order 1982 (S.I. 1982/1084 (N.I. 16)). Section 41 was also amended, and section 70(1)(a)(ii) was substituted, by paragraphs 2 and 4 respectively of Schedule 3 to the Health and Social Security (Northern Ireland) Order 1984. *See also* Article 41 of, and paragraph 4 of Schedule 3 to, the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

person who has ceased to receive full-time education is to continue to be treated as a child), 8 (exclusion from benefit of children aged sixteen but under the age of nineteen who are receiving advanced education), 9 (child receiving financial support under the Disabled Persons (Employment) Act (Northern Ireland) 1945, the Employment and Training Act (Northern Ireland) 1950 or the Industrial Training Act (Northern Ireland) 1964) or 9A (child receiving supplementary benefit) of the Child Benefit (General) Regulations (Northern Ireland) 1979(a).”.

Amendment of regulation 11 of the principal regulations

3.—(1) Regulation 11 of the principal regulations (contribution to maintenance of adult dependant) shall be amended in accordance with paragraphs (2) and (3) of this regulation.

(2) After paragraph (2) there shall be inserted the following paragraph—

“(2A.) Where, within one month of having been entitled to an increase of unemployment benefit or sickness benefit under section 44(3)(a)(b) by virtue of contributing to the maintenance of her husband at a weekly rate not less than the standard rate of the increase, a woman becomes entitled to a benefit which attracts a standard rate of increase higher than that of the benefit to which she had been entitled, she shall be deemed to satisfy the condition in paragraph (1)(a) if she satisfies it in relation to the benefit to which she had been entitled; and in this paragraph “entitled” includes deemed to have been entitled.”.

(3) In paragraph (3) for “paragraph (2)” there shall be substituted “paragraphs (2) and (2A)” and at the end there shall be inserted “or the condition of section 44(3)(a) that her husband is not engaged in any one or more employments from which his weekly earnings exceed the standard rate of increase”.

Amendment of Schedule 2 to the principal regulations

4.—(1) Schedule 2 to the principal regulations shall be amended in accordance with paragraphs (2) to (4) of this regulation.

(2) After paragraph 2B there shall be inserted the following paragraph—

“2BB. The provisions of paragraphs 2A and 2B above shall not apply so as to affect entitlement to an increase of invalid care allowance in respect of a child in any case where the beneficiary—

(a) was entitled to receive such an increase immediately before 26th November 1984; and

(b) throughout the period from and including that date to the date of coming into operation of this paragraph was, or but for the operation of those paragraphs would have been, continuously so entitled,

until such time as he would otherwise first cease to be so entitled.”.

(3) In paragraph 7(b)(i)(c) all the words after “child benefit” shall be omitted.

(a) S.R. 1979 No. 5; the relevant amending regulations are S.R. 1980 No. 261 and S.R. 1982 No. 114
 (b) Section 44(3)(a) was amended by paragraph 2 of Schedule 1 to the Social Security (Northern Ireland) Order 1980
 (c) As substituted by Article 38(2) of the Social Security (Northern Ireland) Order 1986

(4) After paragraph 8 there shall be inserted the following paragraph—

“9.—(1) Subject to sub-paragraph (2) below any reference to earnings in this Schedule includes a reference to payments by way of occupational pension.

(2) Sub-paragraph (1) above shall not apply so as to affect entitlement to an increase of invalid care allowance in respect of a child or adult dependant in any case where the beneficiary—

(a) was entitled to receive such an increase immediately before this paragraph came into operation; and

(b) but for the operation of sub-paragraph (1) above would continue to be so entitled,

until such time as he would first otherwise cease to be so entitled.”.

Sealed with the Official Seal of the Department of Health and Social Services for Northern Ireland on 24th March 1987.

(L:S.)

A. N. Burns

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations further amend the Social Security Benefit (Dependency) Regulations (Northern Ireland) 1977 (“the principal regulations”). They correspond to provision contained in regulations made by the Secretary of State for Social Services in relation to Great Britain and accordingly, by virtue of section 10(2) of, and paragraph 21 of Schedule 3 to, the Social Security Act 1980 (c. 30) are not subject to the requirement of section 10(1) of that Act for prior reference to the Social Security Advisory Committee.

Regulation 2 inserts a new paragraph (3) into regulation 4B of the principal regulations so as to provide that, for the purposes of those provisions of the Social Security (Northern Ireland) Act 1975 relating to child’s special allowance, guardian’s allowance, increases of benefit for dependent children and persons having the care of dependent children and industrial death benefit, a person entitled to child benefit in respect of a child (which is normally a condition of entitlement to an increase under those provisions) shall be treated as not so entitled for any period when that benefit is not payable because the child is in employment, or between the ages of sixteen and nineteen and receiving advanced education, or receiving a training allowance or supplementary benefit.

Regulation 3 inserts a new paragraph (2A) into regulation 11 of the principal regulations so as to provide that a woman who is not residing with her husband but who was entitled to an increase of unemployment or sickness benefit in respect of him because she was contributing to his maintenance at not less than the standard rate of that increase, and who within one month becomes entitled to another benefit which attracts a higher rate of increase, shall be deemed to be contributing to her husband's maintenance at that higher rate if she continues to contribute at the lower rate.

Regulation 4 makes three amendments to Schedule 2 to the principal regulations. The first amendment provides that the provisions of paragraphs 2A and 2B (which provide for the reduction of increases of invalid care allowance in respect of dependent children by reference to the earnings of a spouse or other partner) shall not apply if the beneficiary would, but for those provisions, have continuously been entitled to receive the increase from before 26th November 1984 (when paragraphs 2A and 2B came into operation) to the date of coming into operation of these regulations. The disapplication is to continue until the first occasion when the beneficiary would cease to so be entitled for some other reason. The second amendment omits the requirement in paragraph 7(b)(i) that to be entitled to an increase of invalid care allowance in respect of an adult having the care of a child the beneficiary must be entitled to an increase of that allowance in respect of that child. The third amendment inserts a new paragraph 9 which provides that any reference in the Schedule to earnings includes a reference to payments by way of occupational pension but not so as to affect entitlement to an increase of invalid care allowance in those cases where the beneficiary was so entitled immediately before the paragraph came into operation until such time as he first otherwise ceases to be so entitled.