

## 1988 No. 273

## SOCIAL SECURITY

**The Child Benefit (General) (Amendment) Regulations  
(Northern Ireland) 1988**

Made . . . . . 29th July 1988

Coming into operation—

regulations 1, 2, 3,  
5, 7 and 8

5th August 1988

regulations 4 and 6

12th September 1988

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 4(1)(aa), (2) and (3), 6(1) and 8(3) of the Child Benefit (Northern Ireland) Order 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 Child Benefit (General) (Amendment) Regulations (Northern Ireland) 1988 and shall come into operation as follows—

(a) regulations 1, 2, 3, 5, 7 and 8 on 5th August 1988; and

(b) regulations 4 and 6 on 12th September 1988.

(2) In these regulations “the principal regulations” means the Child Benefit (General) Regulations (Northern Ireland) 1979(b).

*Amendment of regulation 1(2) of the principal regulations*

2. In regulation 1(2) of the principal regulations (interpretation) after the definition of “full-time education” there shall be inserted the following definitions—

“ “remunerative work” means work of not less than 24 hours a week—

(a) in respect of which payment is made; or

(b) which is done in expectation of payment;

“youth training programme” means—

(a) arrangements made under section 1 of the Employment and Training Act (Northern Ireland) 1950(c) (general functions of the

(a) S.I. 1975/1504 (N.I. 16); Article 4(1)(aa) was inserted by Article 6(3) of the Social Security (Northern Ireland) Order 1988 (S.I. 1988/594 (N.I. 2)); Article 4(3) was amended by Article 5(5) of the Social Security (Northern Ireland) Order 1980 (S.I. 1980/870 (N.I. 8)) and Article 6(1) was amended by Article 6(4) of the Social Security (Northern Ireland) Order 1988

(b) S.R. 1979 No. 5; relevant amending regulations are S.R. 1980 No. 261, S.R. 1982 No. 114, S.R. 1987 No. 130 and S.R. 1988 No. 132

(c) 1950 c. 29 (N.I.); section 1(1) and (1A) was substituted by Article 24 of the Industrial Relations (Northern Ireland) Order 1987 (S.I. 1987/936 (N.I. 9)) and section 1(1) and (1A) is further substituted, from 23rd August 1988, by Article 3 of the Employment and Training (Amendment) (Northern Ireland) Order 1988 (S.I. 1988/1087 (N.I. 10))

Department of Economic Development as to employment and training for employment);

- (b) arrangements made by the Secretary of State for Defence for persons enlisted in Her Majesty's forces for any special term of service specified in regulations made under section 2 of the Armed Forces Act 1966(a) (power of Defence Council to make regulations as to engagement of persons in regular forces); or
- (c) for the purposes of the application of Council Regulation (EEC) No. 1408/71(b), any corresponding provisions operated in another member State;

for purposes which include the training of persons who, at the beginning of their training, are under the age of eighteen.”.

#### *Amendment of regulation 6(2) of the principal regulations*

3. In regulation 6(2) of the principal regulations (interruption of full-time education) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

- “(a) provision is made for the training of that person, and for an allowance to be payable to that person, under the youth training programme; or”.

#### *Amendment of regulation 7(3) of the principal regulations*

4. In regulation 7(3) of the principal regulations (circumstances in which a person who has ceased to receive full-time education is to continue to be treated as a child) for “full-time in gainful employment” there shall be substituted “in remunerative work”.

#### *Substitution of regulation 9 of the principal regulations*

5. For regulation 9 of the principal regulations (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) there shall be substituted the following regulation—

##### *“Child receiving training under the youth training programme*

9. Benefit shall not be payable by virtue of Article 4(1)(b) of the Order(c) in respect of a child aged sixteen or over for any week—

- (a) in which training for that child is being provided under the youth training programme; and
- (b) in respect of which an allowance may be paid under that scheme to that child.”.

(a) 1966 c. 45

(b) O.J. No. L149, 5.7.1971; Regulations (EEC) No. 1408/71 and No. 574/72 were restated in amended form in Council Regulation (EEC) No. 2001/83 (O.J. No. L230, 22.8.1983) and further amended by Council Regulations (EEC) No. 1660/85 (O.J. No. L160, 20.6.1985), 1661/85 (O.J. No. L160, 20.6.1985) and 3811/86 (O.J. No. L355, 16.12.1986), Commission Regulation (EEC) No. 513/86 (O.J. No. L51, 28.2.1986) and Articles 60 and 220 of, and Point 1, Part VIII of Annex I to the Act of Accession to the European Communities of Spain and Portugal

(c) Article 4(1)(b) was amended by Article 71(1)(a) of the Social Security (Northern Ireland) Order 1986 (S.I. 1986/1888 (N.I. 18))

*Insertion of regulation 9B into the principal regulations*

6. After regulation 9A of the principal regulations (child receiving income support) there shall be inserted the following regulation—

*“Circumstances in which a person who has ceased to receive full-time education is to be treated as a child*

**9B.**—(1) For the purposes of Article 4(1)(aa) of the Order, in relation to a person under the age of eighteen who is not receiving full-time education, the prescribed conditions are—

- (a) that person is registered for work or for training under the youth training programme with—
    - (i) the Department of Economic Development,
    - (ii) the Ministry of Defence,
    - (iii) an education and library board established under Article 3 of the Education and Libraries (Northern Ireland) Order 1986(a), or
    - (iv) for the purposes of applying Council Regulation (EEC) No. 1408/71, any corresponding body in another member State;
  - (b) that person is not engaged in remunerative work;
  - (c) the extension period which applies in the case of that person has not expired;
  - (d) immediately before the extension period begins, the person who is responsible for him is entitled to benefit in respect of him without regard to this regulation; and
  - (e) the person who is responsible for him has made a written request to the Department for the payment of benefit during the extension period.
- (2) For the purposes of paragraph (1)(c), (d) and (e), the extension period—
- (a) begins on the first day of the week in which benefit would cease to be payable in respect of a person but for this regulation; and
  - (b) where a person ceases to be treated as a child by virtue of Article 4(1)(a) of the Order (meaning of child) or regulation 7 (circumstances in which a person who has ceased to receive full-time education is to continue to be treated as a child)—
    - (i) on or after the first Monday in September, but before the first Monday in January of the following year, ends on the last day of the week which falls immediately before the week which includes the first Monday in January in that year,
    - (ii) on or after the first Monday in January but before the Monday following Easter Monday in that year, ends on the last day of the week which falls 12 weeks after the week which includes the first Monday in January in that year,
    - (iii) at any other time of the year, ends on the last day of the week which falls 12 weeks after the week which includes the Monday following Easter Monday in that year.

(3) Benefit shall not be payable by virtue of Article 4(1)(aa) of the Order in respect of a child aged sixteen or over for any week in which—

- (a) he is engaged in training under the youth training programme; or
- (b) he is entitled to income support.”.

*Insertion of regulation 16A into the principal regulations*

7. After regulation 16 of the principal regulations (modification of priority provisions in Schedule 2 to the Order) there shall be inserted the following regulation—

*“Exception to Article 8(3) of the Order*

**16A.**—(1) A person shall not be disentitled to benefit in respect of a child for any week by virtue of the provisions of Article 8(3) of the Order (persons not entitled to benefit for any week if benefit already paid for that week to another person, whether or not that other person was entitled to it) if in respect of that week—

- (a) the determining authority has decided that the Department shall be entitled to recover benefit which has already been paid in respect of that child from a person in consequence of his misrepresentation of, or his failure to disclose, any material fact and; where that determining authority is one from whose decision an appeal lies, the time for appealing has expired and no appeal has been made; or
- (b) the benefit already paid to the other person has been voluntarily repaid to, or recovered by, the Department in a case where the determining authority either—
  - (i) has decided on review that while there was no entitlement to benefit it is not recoverable, or
  - (ii) has decided on review that there was no entitlement to benefit but has made no decision as to its recoverability.

(2) In this regulation “determining authority” means, as the case may require, the Chief or any other adjudication officer, a social security appeal tribunal, the Chief or any other Social Security Commissioner or a Tribunal of 2 or 3 such Commissioners constituted in accordance with section 116 of the Social Security Act, as applied to appeals concerning child benefit by Article 53(3) and (6) of the Social Security (Northern Ireland) Order 1986(a).”.

*Revocation*

8. The Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1985(b) are hereby revoked.

Sealed with the Official Seal of the Department of Health and Social Services on 29th July 1988.

(L.S.)

C. Davie

Assistant Secretary

(a) S.I. 1986/1888 (N.I. 18)

(b) S.R. 1985 No. 124; relevant amending regulations are S.R. 1987 Nos. 122 and 465

*(This note is not part of the Regulations.)*

Article 4(1)(aa) of the Child Benefit (Northern Ireland) Order 1975, one of the enabling provisions under which these regulations are made, is brought into operation on 12th September 1988 by virtue of the Social Security (1988 Order) (Commencement No. 2) Order (Northern Ireland) 1988 (S.R. 1988 No. 254 (C. 11)).

These regulations further amend the Child Benefit (General) Regulations (Northern Ireland) 1979 ("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 defines "remunerative work" and "youth training programme".

Regulation 3 revises the circumstances in which child benefit is not payable for a period of interruption of full-time education.

Regulation 4 substitutes a reference to "remunerative work" for the reference to "full-time in gainful employment" in regulation 7(3) of the principal regulations.

Regulation 5 substitutes a new regulation 9 into the principal regulations to provide that child benefit shall not be payable in respect of a child who is receiving training in respect of which an allowance may be paid under the youth training programme.

Regulation 6 inserts a new regulation 9B into the principal regulations to provide for a person to be treated as a child during a further period where that person is registered for work or training.

Regulation 7 incorporates regulation 12 of the Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1985 (modification of Article 8(3) of the Child Benefit (Northern Ireland) Order 1975 regarding the rule that only one person is entitled to receive child benefit in respect of a child), with technical amendments, into the principal regulations.

Regulation 8 revokes the Child Benefit (Claims and Payments) Regulations (Northern Ireland) 1985.