

2000 No. 361

SOCIAL SECURITY

**The Child Benefit (General) (Amendment) Regulations
(Northern Ireland) 2000**

Made 22nd November 2000

Coming into operation in accordance with regulation 1(1)

The Department for Social Development, in exercise of the powers conferred by sections 138(1)(b) and (4), 139(3)(c), 140(1) and 143(6) of, and paragraph 1(1) of Schedule 9 to, the Social Security Contributions and Benefits (Northern Ireland) Act 1992(a) and now vested in it(b), 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) 2000 and shall come into operation—

- (a) for the purposes of regulation 2(7) and (8)(b)(ii), on 6th April 2001;
- (b) for all other purposes, on 23rd November 2000.

(2) The Interpretation Act (Northern Ireland) 1954(c) shall apply to these Regulations as it applies to an Act of the Assembly.

Amendment of the Child Benefit (General) Regulations

2.—(1) The Child Benefit (General) Regulations (Northern Ireland) 1979(d) shall be amended in accordance with paragraphs (2) to (10).

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

(a) after the definition of “the 1998 Order”(e) there shall be inserted the following definition—

“ “the Benefits Act” means the Social Security Contributions and Benefits (Northern Ireland) Act 1992;”;

(a) 1992 c. 7; section 139(3)(c) was amended by section 63 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.)) and paragraph 1(1) of Schedule 9 was amended by paragraph 40 of Schedule 5 to, and Schedule 6 to, the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))

(b) See Article 8(b) of S.R. 1999 No. 481

(c) 1954 c. 33 (N.I.)

(d) S.R. 1979 No. 5; relevant amending rules are S.R. 1979 No. 361, S.R. 1980 Nos. 261 and 427, S.R. 1987 No. 130, S.R. 1988 No. 273, S.R. 1989 No. 102, S.R. 1996 Nos. 289 and 470 and S.R. 1999 No. 310 (C. 23). See Article 4(b) of S.R. 1999 No. 481

(e) The definition of “the 1998 Order” was inserted by Article 7(2) of S.R. 1999 No. 310 (C. 23)

(b) after the definition of “advanced education”(a) there shall be inserted the following definition—

“ “the Arrangements for Placement of Children Regulations” means the Arrangements for Placement of Children (General) Regulations (Northern Ireland) 1996(b);”;

(c) in the definition of “youth training programme”(c) for ““youth training programme”” there shall be substituted ““relevant training scheme”” and that definition shall be inserted after the definition of “full-time education”(d).

(3) For regulation 3(e) (child in residential accommodation in prescribed circumstances) there shall be substituted the following regulation—

“Child in residential accommodation in prescribed circumstances

3. The prescribed circumstances for the purposes of section 139(3)(c) of the Benefits Act (absence of child disregarded if in residential accommodation pursuant to certain provisions) are any circumstances in which a child is in residential accommodation pursuant to arrangements made under—

(a) where the child has attained the age of 18, Article 15 or 36 of the Health and Personal Social Services (Northern Ireland) Order 1972(f); or

(b) the Children Order,

and such accommodation has been provided solely on account of that child’s disability or because his health would be likely to be significantly impaired, or further impaired, unless such accommodation was provided.”.

(4) In regulation 4(3)(g) (days of absence to be disregarded in determining whether a child is living with a person) for “Article 7” there shall be substituted “Article 15 or 36”.

(5) In regulation 6(2)(a)(h) (interruption of full-time education) for “the youth training programme” there shall be substituted “a relevant training scheme”.

(6) For regulation 9(i) (child receiving training under the youth training programme) there shall be substituted the following regulation—

“Child receiving training under a relevant training scheme

9. Child benefit shall not be payable by virtue of section 138(1)(b) of the Benefits Act in respect of a child aged 16 or over for any week—

(a) The definition of “advanced education” was substituted by regulation 2 of S.R. 1987 No. 130

(b) S.R. 1996 No. 453

(c) The definition of “youth training programme” was inserted by regulation 2 of S.R. 1988 No. 273

(d) The definition of “full-time education” was substituted by regulation 2 of S.R. 1987 No. 130

(e) Regulation 3 was amended by regulation 2(3) of S.R. 1996 No. 470

(f) S.I. 1972/1265 (N.I. 14)

(g) Paragraph (3) was amended by regulation 4(3) of S.R. 1996 No. 470

(h) Paragraph (2) was substituted by regulation 2(b) of S.R. 1980 No. 261 and amended by regulation 3 of S.R. 1988 No. 273 and regulation 2 of S.R. 1989 No. 102

(i) Regulation 9 was substituted by regulation 5 of S.,R. 1988 No. 273

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

(7) For regulation 9A(a) (child receiving income support or income-based jobseeker’s allowance) there shall be substituted the following regulation—

“Child receiving income support, income-based jobseeker’s allowance or incapacity benefit

9A. Child benefit shall not be payable in respect of a child by virtue of section 138(1)(c) of the Benefits Act for any week in respect of which that child receives—

- (a) income support;
- (b) an income-based jobseeker’s allowance within the meaning of Article 3(4) of the Jobseeker’s (Northern Ireland) Order 1995(b); or
- (c) incapacity benefit by virtue of being a person to whom section 30A(1)(b) of the Benefits Act(c) applies.”.

(8) In regulation 9B(d) (circumstances in which a person who has ceased to receive full-time education is to be treated as a child)—

- (a) in paragraph (1)(a) for “the youth training programme” there shall be substituted “a relevant training scheme”;
- (b) in paragraph (3)—
 - (i) in sub-paragraph (a) for “the youth training programme” there shall be substituted “a relevant training scheme”;
 - (ii) at the end of sub-paragraph (b) there shall be inserted “or to incapacity benefit by virtue of being a person to whom section 30A(1)(b) of the Benefits Act applies”.

(9) In regulation 18 (children in detention, care etc.)—

(a) in paragraph (2) for sub-paragraph (b) there shall be substituted the following sub-paragraph—

“(b) “penalty” means, in the case of any court in Northern Ireland, a sentence of imprisonment, or detention under Article 39, 41, 45 or 54 of, or paragraph 6 of Schedule 2 to, the Criminal Justice (Children) (Northern Ireland) Order 1998(e) or an order for detention in a juvenile justice centre or young offenders centre

(a) Regulation 9A was inserted by regulation 5 of S.R. 1980 No. 261 and substituted by regulation 10(2) of S.R. 1996 No. 289
 (b) S.I. 1995/2705 (N.I. 15)
 (c) Section 30A was inserted by Article 3(1) of the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)) and subsection (1)(b) was inserted by Article 61 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))
 (d) Regulation 9B was inserted by regulation 6 of S.R. 1988 No. 273 and amended by regulation 10(3) of S.R. 1996 No. 289
 (e) S.I. 1998/1504 (N.I. 9)

and, in the case of any court not in Northern Ireland, any comparable sentence or order.”;

(b) in paragraph (3)(a) and (i) for “a training school, a remand home, a borstal institution, a remand centre” there shall be substituted “a juvenile justice centre”;

(c) for paragraph (5)(a) there shall be substituted the following paragraphs—

“(5) Subject to paragraph (5A), for the purposes of paragraph 1(1)(f) of Schedule 9 to the Benefits Act (child in care of the Department or the subject of a parental rights order in such circumstances as may be prescribed), the prescribed circumstances are that the child is provided with, or placed in, accommodation under Part IV of the Children Order and the cost of that child’s accommodation or maintenance is borne wholly or partly out of an authority’s funds or any other public funds.

(5A) Paragraph (5) shall only apply to the extent that the child is not in residential accommodation in the circumstances prescribed in regulation 3.”;

(d) for paragraphs (8) and (9)(b) there shall be substituted the following paragraphs—

“(8) For any day in any week in which a child is placed by an authority in the home of any person in accordance with the provisions of—

(a) the Arrangements for Placement of Children Regulations;

(b) the Foster Placement Regulations,

and that authority is making a payment in respect of either the child’s accommodation or maintenance or both under Article 27 of the Children Order, paragraph (6) shall not apply to that person in relation to that child.

(9) Paragraph (6) shall not apply in respect of any child who—

(a) is being looked after by an authority; and

(b) has been placed for adoption by that authority in the home of a person proposing to adopt him,

provided that an authority is making a payment in respect of either the child’s accommodation or maintenance or both under Article 27 of the Children Order.”.

(10) In regulation 19(4) (right to benefit of voluntary organisations) for sub-paragraph (a) there shall be substituted the following sub-paragraph—

“(a) that child is in residential accommodation in the circumstances prescribed in regulation 3; or”.

(a) Paragraph (5) was amended by regulation 2 of S.R. 1979 No. 361, regulation 2 of S.R. 1980 No. 427 and regulation 2(5)(a) of S.R. 1996 No. 470

(b) Paragraph (8) was amended by, and paragraph (9) was added by, regulation 2(5) of S.R. 1996 No. 470

Sealed with the Official Seal of the Department for Social Development
on 22nd November 2000.

(L.S.)

John O'Neill
Senior Officer of the Department
for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations amend the Child Benefit (General) Regulations (Northern Ireland) 1979.

In particular, they—

insert new definitions and replace references to youth training programme with references to relevant training scheme (regulation 2(2), (5), (6) and (8)(a) and (b)(i));

prescribe circumstances where a child's absence in residential accommodation pursuant to certain provisions is to be disregarded (regulation 2(3));

provide that child benefit shall not be payable in respect of a child who satisfies certain conditions of entitlement to incapacity benefit (regulation 2(7) and (8)(b)(ii));

prescribe circumstances where child benefit is not payable in respect of a child in the care of an authority (regulation 2(9)(c) and (d));

update references to legislation in the provisions relating to the right to benefit of voluntary organisations (regulation 2(10));

make minor amendments to update obsolete references (regulation 2(4) and (9)(a) and (b)).

These Regulations correspond to provision contained in regulations made by the Secretary of State for Social Security in Great Britain and accordingly, by virtue of section 149(3) of, and paragraph 10 of Schedule 5 to, the Social Security Administration (Northern Ireland) Act 1992 (c. 8), are not subject to the requirement of section 149(2) of that Act for prior reference to the Social Security Advisory Committee.

These Regulations do not impose any charge on business.

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