
STATUTORY INSTRUMENTS

1988 No. 1227

SOCIAL SECURITY

The Child Benefit (General) Amendment Regulations 1988

<i>Made</i>	- - - -	<i>15th July 1988</i>
<i>Laid before Parliament</i>		<i>15th July 1988</i>
<i>Coming into force</i>		
<i>Regulations 1, 2, 3, 5, 7 and 8</i>		<i>5th August 1988</i>
<i>Regulations 4 and 6</i>		<i>12th September 1988</i>

The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 2(1)(aa), (2) and (3), 4(1), 6(3), 22(1)(b) and 24(1) of the Child Benefit Act 1975(1), and all other powers enabling him in that behalf, after agreement by the Social Security Advisory Committee that proposals to make these Regulations should, in so far as they are required to be referred to it, not be referred(2), hereby makes the following Regulations—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Child Benefit (General) Amendment Regulations 1988 and shall come into force 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 1976(3).

Amendment of regulation 1(2) of the principal Regulations

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

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

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

(1) 1975 c. 61; section 2(1)(aa) was inserted by the Social Security Act 1988 (c. 7), section 4(3); section 4(1) was amended by the Social Security Act 1988, section 4(4), and section 24(1) is cited because of the meaning ascribed to the word“prescribed”.
(2) See section 10(2)(b) of the Social Security Act 1980 (c. 30).
(3) S.I.1976/965; relevant amending instruments are S.I. 1977/534, 1980/1045, 1982/470, 1987/357 and 1988/521.

- (b) which is done in expectation of payment;
 “youth training scheme” means—
- (a) arrangements made under section 2 of the Employment and Training Act 1973⁽⁴⁾ (functions of the Secretary of State);
 - (b) arrangements made by the Secretary of State 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⁽⁵⁾ (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⁽⁶⁾, 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 18.”

Amendment of regulation 6(2) of the principal Regulations

3. In regulation 6(2) of the principal Regulations⁽⁷⁾ (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 scheme; or”.

Amendment of regulation 7(3) of the principal Regulations

4. In regulation 7(3) of the principal Regulations⁽⁸⁾ (circumstances in which a person who has ceased to receive full-time education is to continue to be treated as a child for the words “full-time in gainful employment” there shall be substituted the words “in remunerative work”.

Substitution of regulation 7B of the principal Regulations

5. The following regulation shall be substituted for regulation 7B of the principal Regulations⁽⁹⁾ (child receiving financial support under the Employment and Training Act 1973)—

“Child receiving training under the youth training scheme

7B. Child benefit shall not be payable by virtue of section 2(1)(b) of the Act in respect of a child aged 16 or over for any week—

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

(4) 1973 c. 50; section 2 is substituted by the Employment Act 1988 (c. 19), section 25(1).

(5) 1966 c. 45.

(6) 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) Nos. 1660/85 (O.J. No. L160, 20.6.1985); 1661/85 (O.J. No. L160, 20.6.1985); 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.

(7) Regulation 6(2) was substituted by S.I. 1980/1045.

(8) Regulation 7(3) was added by S.I. 1982/470.

(9) Regulation 7B was added by S.I. 1978/1275, substituted by S.I. 1980/1045 and amended by S.I. 1982/470.

Insertion of regulation 7D into the principal Regulations

6. The following regulation shall be inserted after regulation 7C of the principal Regulations(10) (child receiving income support)—

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

7D.—(1) For the purposes of section 2(1)(aa) of the Act, in relation to a person under the age of 18 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 scheme with—
 - (i) the Department of Employment;
 - (ii) the Ministry of Defence;
 - (iii) in England and Wales, a local education authority within the meaning of section 114(1) of the Education Act 1944(11) (interpretation);
 - (iv) in Scotland, an education authority within the meaning of section 135(1) of the Education (Scotland) Act 1980(12) (interpretation); or
 - (v) 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 section 2(1)(a) of the Act (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;

(10) Regulation 7C was inserted by S.I. 1980/1045.

(11) 1944 c. 31; the definition in section 114 has been amended by S.I. 1974/595 and 1977/293. As from 1st April 1965, any reference in the Education Acts, or in any other Act, to a local education authority is to be construed in relation to any outer London borough as a reference to the council of that borough and in relation to the Inner London Education Area as a reference to the Inner London Education Authority (section 30 of the London Government Act 1963 (c. 33) and section 18 of the Local Government Act 1985 (c. 51)).

(12) 1980 c. 44.

(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) Child benefit shall not be payable by virtue of section 2(1)(aa) of the Act in respect of a child aged 16 or over for any week in which—

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

Insertion of regulation 14A into the principal Regulations

7. After regulation 14 of the principal Regulations (modification of priority provisions in Schedule 2 to the Act) there shall be inserted the following regulation—

“Exception to section 6(3) of the Act

14A.—(1) A person shall not be disentitled to benefit in respect of a child for any week by virtue of the provisions of section 6(3) of the Act (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 Secretary of State 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 three such Commissioners constituted in accordance with section 116 of the Social Security Act 1975(13) as applied to appeals concerning child benefit by section 52(3) and (6) of the Social Security act 1986(14).”.

Revocation

8. The Child Benefit (Claims and Payments) Regulations 1984(15) in so far as they are in force are hereby revoked.

(13) 1975 c. 14.

(14) 1986 c. 50.

(15) S.I. 1984/1960, as revoked in part by S.I. 1987/1968.

Signed by authority of the Secretary of State for Social Services.

15th July 1988

Nicholas Scott
Minister of State,
Department of Health and Social Security

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the Child Benefit (General) Regulations 1976 (the principal Regulations). They define “remunerative work” and “youth training scheme” (regulation 2); revise the circumstances in which child benefit is not payable for a period of interruption of full-time education (regulation 3); and substitute a reference to remunerative work for a reference to “full-time gainful employment” in regulation 7(3) (regulation 4). They also substitute a new regulation 7B to provide that child benefit shall not be payable in respect of a child who is receiving training under the youth training scheme in respect of which an allowance may be paid (regulation 5); and add a new regulation 7D 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 6). In addition, the Regulations incorporate regulation 12 of the Child Benefit (Claims and Payments) Regulations 1984 (modification of section 6(3) of the Child Benefit Act 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 7) and revoke the Child Benefit (Claims and Payments) Regulations 1984 in so far as they have not yet been revoked (regulation 8).