
STATUTORY INSTRUMENTS

2003 No. 493

The Child Benefit (General) Regulations 2003

PART 6

Residence

Circumstances in which a person is treated as not being in Great Britain

21.—(1) A person shall be treated as not being in Great Britain for the purposes of section 146(2)(1) of the Contributions and Benefits Act if he is not ordinarily resident in the United Kingdom.

(2) Paragraph (1) does not apply to a Crown servant posted overseas or his partner.

(3) A person who is in Great Britain as a result of his deportation, expulsion or other removal by compulsion of law from another country to Great Britain shall be treated as being ordinarily resident in the United Kingdom.

Persons temporarily absent from Great Britain

22.—(1) A person who is ordinarily resident in the United Kingdom and is temporarily absent from Great Britain shall be treated as being in Great Britain during the first—

- (a) 8 weeks of any period of absence; or
- (b) 12 weeks of any period of absence where that period of absence, or any extension to that period of absence, is in connection with—
 - (i) the treatment of his illness or physical or mental disability;
 - (ii) the treatment of his partner's illness or physical or mental disability;
 - (iii) the death of a person who, immediately prior to the date of death, was his partner;
 - (iv) the death, or the treatment of the illness or physical or mental disability, of a child for whom either he or his partner is, or both of them are, responsible; or
 - (v) the death, or the treatment of the illness or physical or mental disability, of his or his partner's relative.

(2) A person is temporarily absent from Great Britain if at the beginning of the period of absence his absence is unlikely to exceed 52 weeks.

(1) Section 146 of the Social Security Contributions and Benefits Act 1992 (c. 4) is substituted by section 56 of the Tax Credits Act 2002 (c. 21).

Application of regulation 22 where the person is in Northern Ireland

23. Where a person who is in Northern Ireland is treated as being in Great Britain in accordance with regulation 22, he is treated as not being in Northern Ireland for the purposes of section 142(2) of the Contributions and Benefits (NI) Act.

Circumstances in which a child is to be treated as being in Great Britain

24.—(1) For the purposes of section 146(1) of the Contributions and Benefits Act a child who is temporarily absent from Great Britain shall be treated as being in Great Britain during—

- (a) the first 12 weeks of any period of absence;
- (b) any period during which the child is absent by reason only of—
 - (i) his receiving full-time education by attendance at a recognised educational establishment in another State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992⁽³⁾ as adjusted by the Protocol signed at Brussels on 17th March 1993⁽⁴⁾ or in Switzerland; or
 - (ii) his being engaged in an educational exchange or visit made with the written approval of the recognised educational establishment which he normally attends;
- (c) any period as is determined by the Board during which the child is absent for the specific purpose of being treated for an illness or physical or mental disability which commenced before his absence began; or
- (d) any period when he is in Northern Ireland.

(2) For the purposes of section 146(1) of the Contributions and Benefits Act, where a child is born while his mother is absent from Great Britain in accordance with regulation 22, he shall be treated as being in Great Britain during such period of absence after his birth as is within 12 weeks of the date on which his mother became absent from Great Britain.

Circumstances in which a person is treated as not being in Northern Ireland

25.—(1) A person shall be treated as not being in Northern Ireland for the purposes of section 142(2) of the Contributions and Benefits (NI) Act if he is not ordinarily resident in the United Kingdom.

(2) A person who is in Northern Ireland as a result of his deportation, expulsion or other removal by compulsion of law from another country to Northern Ireland shall be treated as being ordinarily resident in the United Kingdom.

Persons temporarily absent from Northern Ireland

26.—(1) A person who is ordinarily resident in the United Kingdom and is temporarily absent from Northern Ireland shall be treated as being in Northern Ireland during the first—

- (a) 8 weeks of any period of absence; or
- (b) 12 weeks of any period of absence where that period of absence, or any extension to that period of absence, is in connection with—
 - (i) the treatment of his illness or physical or mental disability;
 - (ii) the treatment of his partner's illness or physical or mental disability;

(2) Section 142 of the [Social Security Contributions and Benefits \(Northern Ireland\) Act \(c.4\)](#) is substituted by section 56 of the [Tax Credits Act 2002 \(c. 21\)](#).

(3) OJNo. L1, 3.1.94, p.3.

(4) OJ No. L1, 3.1.94, p.572.

- (iii) the death of a person who, immediately prior to the date of death, was his partner;
- (iv) the death, or the treatment of the illness or physical or mental disability, of a child for whom either he or his partner is, or both of them are, responsible; or
- (v) the death, or the treatment of the illness or physical or mental disability, of his or his partner's relative.

(2) A person is temporarily absent from Northern Ireland if at the beginning of the period of absence his absence is unlikely to exceed 52 weeks.

Application of regulation 26 where the person is in Great Britain

27. Where a person who is in Great Britain is treated as being in Northern Ireland in accordance with regulation 26, he is treated as not being in Great Britain for the purposes of section 146 of the Contributions and Benefits Act.

Circumstances in which a child is to be treated as being in Northern Ireland

28.—(1) For the purposes of section 142(1) of the Contributions and Benefits (NI) Act a child who is temporarily absent from Northern Ireland shall be treated as being in Northern Ireland during—

- (a) the first 12 weeks of any period of absence;
- (b) any period during which the child is absent by reason only of—
 - (i) his receiving full-time education by attendance at a recognised educational establishment in another State which is a Contracting Party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993 or in Switzerland; or
 - (ii) his being engaged in an educational exchange or visit made with the written approval of the recognised educational establishment which he normally attends;
- (c) any period as is determined by the Board during which the child is absent for the specific purpose of being treated for an illness or physical or mental disability which commenced before his absence began; or
- (d) any period when he is in Great Britain.

(2) For the purposes of section 142(1) of the Contributions and Benefits (NI) Act, where a child is born while his mother is absent from Northern Ireland in accordance with regulation 26, he shall be treated as being in Northern Ireland during such period of absence after his birth as is within 12 weeks of the date on which his mother became absent from Northern Ireland.

Overlap of entitlement to child benefit under both the legislation of Northern Ireland and Great Britain

29.—(1) Where by virtue of these Regulations two or more persons would be entitled to child benefit in respect of the same child for the same week under both the legislation of Northern Ireland and Great Britain, one of them only shall be so entitled.

(2) Where the child is in Great Britain (except where regulation 28(1)(d) applies) or is treated as being in Great Britain, the question of which of the persons is entitled shall be determined in accordance with the legislation applying to Great Britain.

(3) Where the child is in Northern Ireland (except where regulation 24(1)(d) applies) or is treated as being in Northern Ireland, the question of which of the persons is entitled shall be determined in accordance with the legislation applying to Northern Ireland.

Crown servants posted overseas

30.—(1) For the purposes of section 146(1) of the Social Security and Contributions and Benefits Act a Crown servant posted overseas shall be treated as being in Great Britain.

(2) A Crown servant posted overseas is a person performing overseas (but not in Northern Ireland) the duties of any office or employment under the Crown in right of the United Kingdom —

- (a) who is, or was, immediately prior to his posting or his first of consecutive postings, ordinarily resident in the United Kingdom; or
- (b) who, immediately prior to his posting or his first of consecutive postings, was in the United Kingdom in connection with that posting.

Partners of Crown servants posted overseas

31.—(1) For the purposes of section 146(1) of the Social Security and Contributions and Benefits Act the partner of a Crown servant posted overseas who is accompanying the Crown servant posted overseas shall be treated as being in Great Britain when he is either—

- (a) in the country where the Crown servant is posted, or
- (b) absent from that country in accordance with regulation 22 as modified by paragraphs (3) and (4).

(2) Regulations 22 and 23 apply to the partner of a Crown servant posted overseas with the modifications set out in paragraphs (3) and (4).

(3) In regulation 22 omit the words “ordinarily resident in the United Kingdom and is”.

(4) In relation to a partner who is accompanying the Crown servant posted overseas the references to “Great Britain” in the phrase “temporarily absent from Great Britain” in paragraphs (1) and (2) of regulation 22 shall be construed as references to the country where the Crown servant is posted and regulation 24(2) shall apply, where appropriate, accordingly.

Children of Crown servants posted overseas

32.—(1) For the purposes of section 146(2) of the Social Security and Contributions and Benefits Act a child who normally lives with a Crown servant posted overseas shall be treated as being in Great Britain when he is either —

- (a) in the country where the Crown servant is posted, or
- (b) absent from that country in accordance with regulation 24 as modified by paragraph (2).

(2) The reference to “Great Britain” in paragraph (1), in the first place where it occurs, shall be construed as a reference to the country where the Crown servant is posted.

Transitional provisions for Part 6

33.—(1) A person is exempt from the requirement to be ordinarily resident in the United Kingdom (which is set out in regulations 21(1) and 25(1)) if he was, or will be on the making of a claim, entitled to child benefit for the week beginning 31st March 2003 until—

- (a) his entitlement ceases, or
- (b) 2nd April 2006,

whichever first occurs.

(2) For the purposes of paragraph (1)(a), a person’s entitlement to child benefit shall be treated as continuing where that person’s entitlement—

- (a) ceases under the legislation of Great Britain and immediately commences under the legislation of Northern Ireland; or
 - (b) ceases under the legislation of Northern Ireland and immediately commences under the legislation of Great Britain.
- (3) In relation to a period of temporary absence which commenced before and continues on or after 7th April 2003, regulations 22 and 26 shall have effect from 7th April 2003 subject to the modifications in paragraphs (4) and (5).
- (4) For regulation 22(2) substitute—
- “(2) A person is temporarily absent from Great Britain if at the beginning of the period of absence his absence was intended to be temporary and has throughout continued to be so intended.”
- (5) For regulation 26(2) substitute—
- “(2) A person is temporarily absent from Northern Ireland if at the beginning of the period of absence his absence was intended to be temporary and has throughout continued to be so intended.”