
STATUTORY INSTRUMENTS

2003 No. 493

The Child Benefit (General) Regulations 2003

PART 7

General and supplementary provisions

Persons treated as residing together

34. For the purposes of Part 9 of the Contributions and Benefits Act and Part 9 of the Contributions and Benefits (NI) Act, the prescribed circumstances in which persons are treated as residing together are circumstances where—

- (a) spouses or two persons who are parents of a child but not husband and wife are absent from one another where such absence is not likely to be permanent; and
- (b) spouses are absent from one another by reason only of the fact that either of them is, or they both are, undergoing medical or other treatment as an in-patient in a hospital or similar institution whether such absence is temporary or not.

Polygamous marriages

35.—(1) For the purposes of Part 9 of the Contributions and Benefits Act and Part 9 of the Contributions and Benefits (NI) Act, a polygamous marriage is treated as having the same consequences as a monogamous marriage for any day, but only for any day, throughout which the polygamous marriage is in fact monogamous.

(2) In paragraph (1)—

- (a) “polygamous marriage” means a marriage celebrated under a law which, as it applies to the particular ceremony and to the parties thereto, permits polygamy;
- (b) “monogamous marriage” means a marriage celebrated under a law which does not permit polygamy;
- (c) a polygamous marriage is referred to as being in fact monogamous when neither party to it has any spouse additional to the other; and
- (d) the day on which a polygamous marriage is contracted, or on which it terminates for any reason, shall be treated as a day throughout which that marriage was in fact monogamous if at all times on that day after it was contracted, or as the case may be, before it terminated, it was in fact monogamous.

Right to child benefit of voluntary organisations

36.—(1) Subject to paragraph (4) and (5), for the purposes of section 147(6) of the Contributions and Benefits Act and section 143(6) of the Contributions and Benefits (NI) Act (right to child benefit of voluntary organisations), a voluntary organisation is regarded as the only person with whom a child is living for any week in which that child is—

- (a) living in premises which are provided or managed by the voluntary organisation, being premises which are required to be registered with a Government Department or local authority or which are otherwise regulated under or by virtue of any enactment relating to England and Wales, Scotland, or Northern Ireland; or
 - (b) placed by the voluntary organisation in the home of any person in accordance with the provisions of the Foster Placement (Children) Regulations 1991, the Fostering of Children (Scotland) Regulations 1996 or the Foster Placement (Children) Regulations (Northern Ireland) 1996.
- (2) A voluntary organisation shall not be regarded as having ceased to have a child living with it by reason only of any temporary absence of that child—
- (a) if the child is undergoing medical or other treatment as an in-patient in a hospital, until such absence has lasted for more than 84 days; or
 - (b) if the child is temporarily absent for any other reason, until such absence has lasted for more than 56 days.
- (3) In calculating the period of 84 days for the purposes of paragraph (2)(a), two or more distinct periods of temporary absence separated by one or more intervals each not exceeding 28 days shall be treated as a continuous period equal in duration to the total of such distinct periods and ending on the last day of the latter or last of such periods.
- (4) A voluntary organisation shall not be regarded as a person with whom a child is living in any week if in that week—
- (a) that child is in residential accommodation in the circumstances prescribed in regulation 3; or
 - (b) paragraph 1 of Schedule 9 to the Contributions and Benefits Act or paragraph 1 of Schedule 9 to the Contributions and Benefits (NI) Act applies to that child.
- (5) Where immediately before the week in which paragraph (1) applies to a child, that child was living with a person who was then entitled to child benefit in respect of him, paragraph (1) shall have effect in relation to that person as if the words “the only person” were omitted for so long as the child is treated as continuing to live with that person by virtue of section 143(2) of the Contributions and Benefits Act or section 139(2) of the Contributions and Benefits (NI) Act.
- (6) Section 143(1)(b) of the Contributions and Benefits Act and section 139(1)(b) of the Contributions and Benefits (NI) Act (person to be treated as responsible for a child in any week if he is contributing to the cost of providing for the child at a weekly rate not less than the weekly rate of child benefit payable in respect of the child for that week) and regulation 16(1) (children in detention shall not apply to a voluntary organisation).

Disapplication of section 13(1A) of the Social Security Administration Act 1992 and section 11(1A) of the Social Security Administration (Northern Ireland) Act 1992

37. For the purposes of section 147(6) of the Contributions and Benefits Act and section 143(6) of the Contributions and Benefits (NI) Act, section 13(1A) of the Social Security Administration Act 1992(1) and section 11(1A) of the Social Security Administration (Northern Ireland) Act 1992(2) (requirement to state national insurance number) shall not apply to a claim for child benefit in respect of a child who is treated as living with a voluntary organisation by virtue of regulation 36.

(1) 1992 c. 5. Section 13(1A) was inserted by section 69 of the Welfare Reform and Pensions Act 1999 (c. 30).
 (2) 1992 c. 8. Section 11(1A) was inserted by Article 66 of the Welfare Reform and Pensions (NI) Order 1999 (S.I.1999/3147 (N.I. 11)).

Exception to section 13(2) of the Social Security Administration Act 1992 and the Social Security Administration (Northern Ireland) Act 1992

38.—(1) A person is not disentitled to child benefit in respect of a child by virtue of section 13(2) of the Social Security Administration Act 1992 and section 11(2) of the Social Security Administration (Northern Ireland) Act 1992 (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 Board is entitled to recover the child benefit 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 limit for appealing has expired and no appeal has been made; or
- (b) the child benefit paid to the other person has been voluntarily repaid to, or recovered by, the Board in a case where the determining authority has decided under section 9 or 10 of the Social Security Act 1998⁽³⁾ or under Article 10 or 11 of the Social Security (Northern Ireland) Order 1998⁽⁴⁾ either—
 - (i) that while there was no entitlement to benefit it is not recoverable, or
 - (ii) 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—

- (a) the Board;
- (b) an appeal tribunal constituted under section 7 of the Social Security Act 1998 or Article 8 of the Social Security (Northern Ireland) Act 1998;
- (c) the Chief or any other Social Security Commissioner, or a tribunal consisting of any three or more such Commissioners constituted in accordance with section 16(7) of the Social Security Act 1998 or Article 16(7) of the Social Security (Northern Ireland) Act 1998;
- (d) an appeal tribunal to which there is a right of appeal pursuant to Article 13 of the Social Security (Northern Ireland) Order 1998⁽⁵⁾; or
- (e) a Commissioner to whom an appeal lies under Article 15 of the Social Security (Northern Ireland) Order 1998⁽⁶⁾.

Use of electronic communications

39.—(1) Schedule 2 to the Child Benefit and Guardian’s Allowance (Administration) Regulations 2003⁽⁷⁾ (the use of electronic communications) applies to the delivery of information to or by the Board which is authorised or required by these Regulations in the same manner as it applies to the delivery of information to or by the Board which is authorised or required by the Child Benefit and Guardian’s Allowance (Administration) Regulations.

(2) References in paragraph (1) to the delivery of information shall be construed in accordance with section 132(8) of the Finance Act 1999⁽⁸⁾.

(3) 1998 c. 14.

(4) S.I. 1998/1506 (N.I. 10).

(5) Article 13 was amended by Schedules 6 and 9 to the [Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Act 1999](#) (S.I. 1999 No. 671).

(6) Article 15 was amended by Schedules 6 and 9 to the [Social Security Contributions \(Transfer of Functions, etc.\) \(Northern Ireland\) Act 1999](#) (S.I. 1999 No. 671).

(7) S.I. 2003/492.

(8) 1999 c. 16.

