

1968. No. 174

[C]

FAMILY ALLOWANCES

Determination of Claims and Questions

REGULATIONS, DATED 25TH JULY 1968, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACTS (NORTHERN IRELAND) 1966, AND THE FAMILY ALLOWANCES ACT (NORTHERN IRELAND) 1966.

The Ministry of Health and Social Services, in conjunction with the Ministry of Finance so far as relates to matters with regard to which the Ministry of Finance has so directed, in exercise of powers conferred by sections 72, 74(2) and 80(3) of the National Insurance Act (Northern Ireland) 1966(a), and sections 5(2) and 8(1) and (2) of the Family Allowances Act (Northern Ireland) 1966(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 Family Allowances (Determination of Claims and Questions) Regulations (Northern Ireland) 1968 and shall come into operation on 2nd September 1968.

(2) In these regulations—

“the Family Allowances Act” means the Family Allowances Act (Northern Ireland) 1966;

“the National Insurance Act” means the National Insurance Act (Northern Ireland) 1966;

“local tribunal” and “insurance officer” have the same meanings as in the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland) 1968(c);

“allowance” means an allowance under the Family Allowances Act;

“award” means an award of an allowance;

and other expressions have, as the case may require, the same meanings as in the Family Allowances Act or the National Insurance Act.

Modification of provisions of the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland) 1968 in their application to family allowances

2. Where by virtue of section 5(2) of the Family Allowances Act (determination of questions arising under that Act) any of the provisions of the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland) 1968 apply in relation to the determination for the purposes of the Family Allowances Act of any question as to the right to an allowance in respect of any person for any family, those provisions shall apply subject to the provisions of these regulations and in particular to the following modifications, that is to say, that references in the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland) 1968 to a question as to the right to benefit shall be treated as including references to a question as to the right to an allowance and references to a claim or to a claimant shall be construed accordingly.

(a) 1966. c. 6 (N.I.).

(b) 1966. c. 8 (N.I.).

(c) S.R. & O. (N.I.) 1968, No. 172.

Review of decisions of insurance officers

3.—(1) Any decision given by an insurance officer by virtue of section 5(2) of the Family Allowances Act or in accordance with section 75(1) of the National Insurance Act (determination of certain questions as to child or family) may be reviewed at any time by an insurance officer, or, on a reference from an insurance officer, by a local tribunal, on the ground that the decision was erroneous in point of law.

(2) Nothing in paragraph (1) shall in relation to such a decision prejudice the operation of section 71(1) of the National Insurance Act (review on various grounds of decisions of insurance officer, local tribunal or Commissioner), but the provisions of subsections (2), (3) and (4) of that section (procedure on such review) shall, subject to the necessary modifications, apply to a review under this regulation as they apply to a review under the said section 71(1).

Review of decisions involving payment of allowances

4.—(1) Where on review a decision is revised so as to make sums on account of an allowance payable the decision given on the review shall have effect as if a claim to the allowance had been made on the date of the application for the review and accordingly no sum on account of the allowance shall be payable in respect of any period earlier than six months before the date on which such application was made.

(2) For the purpose of this regulation, where a decision is reviewed at the instance of an insurance officer, the date on which it was first decided by the insurance officer that the decision should be reviewed shall be deemed to be the date of the application for the review.

Adjustment of sums paid on account of allowances

5.—(1) In any case in which—

(a) by virtue of an award sums have been paid on account of an allowance by reason of the inclusion of a child in one family (in this regulation referred to as “the first family”); and

(b) by a subsequent decision the child is found to be included in another family (in this regulation referred to as “the second family”) during a period for which the sums were paid, and an award is made for the second family by reason of the inclusion of the child in that family; and

(c) either—

(i) during that period the conditions of the Family Allowances Act and regulations for the inclusion of the child in the first family would have been satisfied but for the inclusion of that child in the second family by virtue of the provisions of paragraphs 1, 2 or 3 of the Schedule to that Act; or

(ii) the sums paid for that period were paid to the person to whom arrears have become payable by reason of the inclusion of the child in the second family or, where that family is the family of a man and his wife living together, were paid to the man on account of an allowance for the family of that man as not having a wife or not living together with his wife;

the subsequent decision shall direct that the sums so paid shall be treated, in accordance with paragraph (2), as having been properly paid for that period and that any arrears payable for that period or any part thereof by virtue of the award to the second family shall be reduced to the extent to which the

sums so paid for that period or any part thereof for which the arrears are payable are directed to be treated as having been properly paid.

(2) For the purposes of ascertaining in any case the sums to be treated under this regulation as having been properly paid to the first family, that family shall be treated as including only any child in whose case during the said period paragraph (1) applies or the conditions for inclusion in that family were satisfied.

Repayment of sums paid as on account of allowances

6.—(1) In the case of any sum paid as on account of an allowance for the family of a man and his wife living together which would have been receivable (if properly paid) by either the man or the wife and which under section 8 of the Family Allowances Act (recovery of sums found by a decision on review or appeal to have been wrongly paid)—

- (a) the wife is not required to repay, the decision on review or appeal shall require repayment from the man if it is shown to the satisfaction of the insurance officer, the local tribunal or the Commissioner, as the case may be, that in relation to the obtaining and receipt of the sum in question he, or any person acting for him, did not throughout use due care and diligence to avoid overpayment;
- (b) the wife is required to repay, the man shall be liable to repay it as well as his wife.

(2) Any sum which a person is required under paragraph (1) or under section 8 of the Family Allowances Act to repay may, without prejudice to any other remedy, be recovered by means of deductions from any other sum receivable on account of any allowance by that person.

(3) In the case of any sum paid as on account of an allowance for the family of a man and his wife living together, for the purposes of sections 67 to 69 of the National Insurance Act (determination of certain matters by insurance officers, local tribunals or Commissioner) and the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland) 1968 in their application to the question whether repayment shall be required from the man under the provisions of this regulation or under section 8 of the Family Allowances Act, the man as well as the wife shall have all the rights and powers of a claimant.

Payment of sums on account of allowances where appeal is pending

7.—(1) Subject to the provisions of these regulations and of section 8 of the Family Allowances Act, sums on account of an allowance awarded shall be payable notwithstanding that an appeal against the award is pending and, subject as aforesaid, shall be treated as having been properly paid and shall not be recoverable under the provisions of the Family Allowances Act or otherwise.

(2) Where an appeal to the Commissioner from an award of a local tribunal is made within twenty-one days of the date on which the award was given, payment of sums on account of the allowance to which the appeal relates shall be suspended until the appeal has been determined.

Revocations and transitional provisions

8. The regulations specified in column (2) of the Schedule to these regulations are hereby revoked to the extent mentioned in column (3) of that Schedule:

Provided that the provisions of these regulations shall not apply to such a decision or award as is specified in regulation 8 of the Family Allowances (Determination of Claims and Questions) Regulations (Northern Ireland) 1959(d) and the provisions of the regulations specified in the Schedule to these regulations shall continue to apply to such a decision or award to the same extent that they would have applied thereto if these regulations had not been made.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 25th day of July 1968.

(L.S.)

H. A. Lowry,
Assistant Secretary.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 25th day of July 1968.

(L.S.)

R. R. Butler,
Assistant Secretary.

SCHEDULE

Regulations Revoked

Regulation 8

Statutory Rules and Orders of Northern Ireland (1)	Citation (2)	Extent of revocation (3)
S.R. & O. (N.I.) 1959, No. 139	The Family Allowances (Determination of Claims and Questions) Regulations (Northern Ireland) 1959.	The whole of the regulations.
S.R. & O. (N.I.) 1961, No. 77	The Family Allowances and National Insurance (Commissioner — Transitional and Consequential Provisions) Regulations (Northern Ireland) 1961.	In the Schedule, the entry relating to the Family Allowances (Determination of Claims and Questions) Regulations (Northern Ireland) 1959.
S.R. & O. (N.I.) 1962, No. 27	The Family Allowances, National Insurance and Industrial Injuries (Consequential Provisions) Regulations (Northern Ireland) 1962.	In regulation 1(2), the definition of "the Family Allowances Regulations"; regulation 16; Schedule 7.

EXPLANATORY NOTE

(This note is not part of the regulations, but is intended to indicate their general purport.)

These regulations consolidate the Family Allowances (Determination of Claims and Questions) Regulations (Northern Ireland) 1959 and subsequent amending regulations which are set out in the Schedule and are revoked by regulation 8.

No amendments other than those of a drafting or consequential nature have been made.