

1969. No. 85

[C]

**FAMILY ALLOWANCES****Making of Claims and Payments**

REGULATIONS, DATED 3RD APRIL 1969, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACTS (NORTHERN IRELAND) 1966 TO 1969.

The Ministry of Health and Social Services, in conjunction with the Ministry of Finance, in exercise of powers conferred by section 51(1) of the National Insurance Act (Northern Ireland) 1966(a) and section 51(2)(b) of that Act, as substituted by section 2(1) of the National Insurance &c. Act (Northern Ireland) 1969(b), and by section 2(3) and (4) of the last-mentioned Act, and of all other powers enabling it in that behalf, hereby makes the following regulations:

*Citation and commencement*

1. These regulations, which may be cited as the Family Allowances (Making of Claims and Payments) Amendment Regulations (Northern Ireland) 1969, shall be read as one with the Family Allowances (Making of Claims and Payments) Regulations (Northern Ireland) 1946(c) (hereinafter referred to as "the principal regulations") and shall come into operation on 7th April 1969.

*Insertion of new regulation*

2. After regulation 10 of the principal regulations there shall be inserted the following regulation:

*"Extinguishment of right to payment of sums on account of allowances*

10A.—(1) The right to payment of any sum on account of an allowance shall, subject to paragraph (2), be extinguished where payment thereof is not obtained within the period of 12 months from the date on which the right is to be treated as having arisen; and for the purposes of this regulation the right shall be treated as having arisen—

(a) in relation to any such sum contained in an instrument of payment which has been given or sent, for the purpose of making payment thereof, to the payee or to a paying office for collection by him (whether or not received or collected as the case may be); notwithstanding that that sum is greater or less than the sum to which the payee has the right to payment—

(i) on the date on the said instrument of payment; or

(ii) if a further instrument of payment has been so given or sent as a replacement for an instrument of payment previously given or sent, on the date on the last such instrument of payment;

(b) in relation to any such sum to which sub-paragraph (a) does not apply, but where notice is given (whether orally or in writing) or is sent that the sum contained in the notice is available for collection, notwithstanding that that sum is greater or less than the sum to which the payee has the right to payment—

(a) 1966. c. 6 (N.I.).  
(b) 1969. c. 3 (N.I.).

(c) S.R. & O. (N.I.) 1946, No. 23.

- (i) if written notice is sent through the post, on the date on which it would be delivered in the ordinary course of post; and
  - (ii) in any other case, on the date of the notice;
- and if more than one such notice is given or sent, on the date determined by reference to the first such notice.

(2) Where a question arises whether the right to payment of any sum on account of an allowance has been extinguished by the operation of paragraph (1) and

- (a) after the expiration of the said period of 12 months the Ministry has received a request in writing for payment of that sum; and
- (b) it is determined in accordance with Part IV of the National Insurance Act (Northern Ireland) 1966 as applied by section 5(2) of the Family Allowances Act (Northern Ireland) 1966(d) that throughout a period commencing within the said period of 12 months and continuing up to the day on which the said request was made there was good cause for not making that request;

the right to payment of that sum shall, notwithstanding the provisions of that paragraph, be treated as having arisen on the date on which it is so determined.

(3) In this regulation—

- (a) 'instrument of payment' means allowance orders for the payment through a paying office of sums on account of allowances and any other instrument whatsoever payable through a paying office or a bank; and
- (b) 'payee' means a person by whom sums on account of allowances are receivable and any person authorised or appointed to act for such a person."

#### *Amendment of regulation 13(2) of the principal regulations*

3. For regulation 13(2) of the principal regulations (claims and payments after death), there shall be substituted the following paragraph:

"(2) Where the right to payment of any sum on account of an allowance to a deceased person was not extinguished at the date of his death, the period of 12 months referred to in regulation 10A shall be calculated from the date on which the right to payment of that sum is treated as having arisen in relation to any such person as is referred to in paragraph (3)(a):

Provided that this paragraph shall not apply to any sum on account of an allowance for the payment of which written application has not been made to the Ministry within 12 months after the date of death or within such longer period as the Ministry, having regard to the circumstances of the particular case, may determine."

#### *Revival of right to payment of benefit*

4. Where the right to payment of any sum on account of an allowance fell to be extinguished on or after 6th March 1969 (being the date of the passing of the National Insurance &c. Act 1969(e)) and before the coming into operation of these regulations the right to payment of that sum shall be revived and any question arising with respect to that right shall be determined in accordance with the provisions of regulation 10A of the principal regulations (as inserted by regulation 2 of these regulations).

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

(e) 1969. c. 4.

*Transitional provisions*

5. The provisions of regulation 10A of the principal regulations (as inserted by regulation 2 of these regulations) shall apply to any right to a sum on account of an allowance accruing before the coming into operation of these regulations except in the case of a right where—

- (a) the right became an accrued right more than 6 months before 6th March 1969; and
- (b) the application of the provisions of section 7(2) of the Family Allowances Act (Northern Ireland) 1966 in force before the coming into operation of these regulations has or would have resulted in that right being extinguished before 6th March 1969.

Sealed with the Official Seal of the Ministry of Health and Social Services for Northern Ireland this 3rd day of April 1969.

(L.S.)

*H. A. Lowry,*  
Assistant Secretary.

Sealed with the Official Seal of the Ministry of Finance for Northern Ireland this 3rd day of April 1969.

(L.S.)

*James V. Morrison,*  
Assistant Secretary.

#### EXPLANATORY NOTE

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

Section 7(2) of the Family Allowances Act (Northern Ireland) 1966, which provided for the extinguishment of the right to sums on account of family allowances where payment of such sums was not obtained within 6 months of their being receivable, was repealed by the National Insurance &c. Act (Northern Ireland) 1969. Regulation 2, which is made under powers conferred by the 1969 Act, provides that the period within which payment of sums on account of family allowances must be obtained shall be 12 months and also provides for a further extension of this period in certain circumstances.

The remaining provisions are of a consequential or transitional nature.