
STATUTORY INSTRUMENTS

1976 No. 963

**The Child Benefit (Residence and
Persons Abroad) Regulations 1976**

PART II

**ADDITIONAL PROVISIONS APPLICABLE TO CERTAIN CATEGORIES
OF PERSONS WHO ARE OR HAVE BEEN OUTSIDE GREAT BRITAIN**

Persons to whom this Part of these regulations applies

- 6.—(1) The persons to whom this Part of these regulations applies are—
- (a) a civil servant, that is to say a person whose employment is by or under the Crown other than a person who is—
 - (i) a serving member of the forces; or
 - (ii) a person who entered or was recruited for such employment outside the United Kingdom for service outside the United Kingdom, unless he entered or was recruited for such service immediately following a period during which he was a serving member of the forces;
 - (b) a serving member of the forces within the meaning of the definition of “serving member of the forces” in regulation 1(2) of the Social Security (Contributions) Regulations 1975;
 - (c) a person who on any day falling within or week beginning in an income tax year is temporarily absent from Great Britain by reason only of the fact that he is in employment (whether under a contract of service or not) outside Great Britain, being an income tax year in relation to which that person proves that at least half of his earnings or other emoluments from that employment are liable to United Kingdom income tax;
 - (d) a spouse of a person mentioned in sub-paragraphs (a) to (c) above who is residing with that person;
 - (e) a person living with such a person as is mentioned in sub-paragraphs (a) to (c) above as if he were the spouse of the last mentioned person and who was so living when both of them were last in Great Britain.

(2) In paragraph (1)(c), “income tax year” means the 12 months beginning with 6th April in any year.

Modification of certain provisions of Part I of the Act in relation to persons absent from Great Britain to whom regulation 6 applies

7.—(1) Any day on which or week in which such a person as is mentioned in regulation 6 is absent from Great Britain by reason only of his being such a person as is mentioned in that regulation shall in relation to benefit be treated for the purposes of section 13(2)(b) and (3) of the Act as a day on which or week in which he is present in Great Britain.

(2) Any week in which or day on which a child is absent from Great Britain shall in relation to benefit be treated for the purposes of section 13(2) of the Act as a week in which or day on which that child is in Great Britain if in that week or on that day that child is living with a person in relation to whom paragraph (1) applies and that person is—

- (a) a parent of that child; or
- (b) a person who before that week was entitled to benefit in respect of that child.

(3) Unless in his discretion the Secretary of State otherwise determines in any case or class of cases, any day of absence from one another of a child and a person, being a day on which paragraph (1) applies to that person, shall, if that absence is due solely to that person being one to whom that paragraph applies, be a day which shall be disregarded under the provisions of section 3(2) of the Act (circumstances in which a person who has had a child living with him at some time before a particular week is to be treated for the purposes of section 3 of the Act as having that child living with him in that week notwithstanding their absence from one another).

Interim payments to persons to whom regulation 6 applies who are absent from Great Britain

8.—(1) Where a person to whom regulation 6 applies and who is in fact absent from Great Britain makes a claim to benefit in respect of a child, the Secretary of State may make arrangements whereby pending the determination of that claim interim payments on account of benefit are made pursuant to it in respect of that child.

(2) Interim payments made under paragraph (1) shall be deemed to be payments of benefit for the purposes of the Act and regulations made under it or provisions applied to it; and if in determining a claim pending the determination of which interim payments have been made a determining authority decides that those payments were not properly payable—

- (a) section 119(1) and (2) of the Social Security Act as modified by regulation 21 of the Child Benefit (Determination of Claims and Questions) Regulations 1976⁽¹⁾ shall apply as it applies to a decision which is reversed or varied on appeal or is revised on a review; and
- (b) repayment of an overpayment shall not be required from any person unless a determining authority is satisfied that that person has not throughout used due care and diligence to avoid overpayment.

(3) In paragraph (2) “determining authority” means, as the case may require, an insurance officer, a local tribunal, the Chief National Insurance Commissioner or any other National Insurance Commissioner or a tribunal of three National Insurance Commissioners constituted in accordance with regulation 6(4) of the Child Benefit (Determination of Claims and Questions) Regulations 1976.

(1) (1976 II, p. 2495).