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STATUTORY INSTRUMENTS

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**1977 No. 342**

**The Social Security (Child Benefit  
Consequential) Regulations 1977**

**Citation, commencement and interpretation**

1.—(1) These regulations may be cited as the Social Security (Child Benefit Consequential) Regulations 1977 and shall come into operation on 4th April 1977.

(2) In these regulations, unless the context otherwise requires—

“the Act” means the Social Security Act 1975;

“the Child Benefit Act” means the Child Benefit Act 1975;

“child benefit” means benefit under Part I of the Child Benefit Act;

“parent” has the meaning assigned to it by section 24(3) of the Child Benefit Act,

and other expressions have the same meanings as in the Act.

(3) Unless the context otherwise requires, any reference in these regulations to—

(a) a numbered section is a reference to the section of the Act bearing that number;

(b) a numbered regulation is a reference to the regulation bearing that number in these regulations and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number;

(c) any provision made by or contained in any enactment or instrument shall be construed as a reference to that provision as amended or extended by any enactment or instrument and as including a reference to any provision which may re-enact or replace it, with or without modification.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889 shall apply in relation to this instrument and in relation to any revocation effected by it as if this instrument, the regulations revoked by it and any regulations revoked by the regulations so revoked were Acts of Parliament, and as if each revocation were a repeal.

**Circumstances in which a person who is not entitled to child benefit is to be treated as if he were so entitled**

2.—(1) For the purposes of section 38 (guardian's allowance) or sections 41, 49 and 64(1) (benefit for beneficiary's dependent children) a person shall be treated as if he were entitled to child benefit in respect of a child for any period throughout which—

(a) child benefit has been awarded to a parent of that child with whom that child is living and with whom that person is residing and either—

(i) the child is being wholly or mainly maintained by that person; or

(ii) that person is also a parent of the child; or

(b) he, or his spouse with whom he is residing, would have been entitled to child benefit in respect of that child had the child been born at the end of the week immediately preceding the week in which birth occurred.

(2) For the purposes of section 41, 49(a) or 64(1), where a beneficiary is a man, he shall be treated as if he were entitled to child benefit in respect of any child not living with him of whom he is a parent if—

- (a) the person who is entitled to child benefit in respect of that child is that man's wife or former wife and is also a parent of that child; and
- (b) he is contributing to the cost of providing for that child at a rate which is at least equal to the lowest amount at which any benefit specified in the second column of Part IV of Schedule 4 to the Act is payable.

(3) For the purpose of determining whether a person is entitled to a guardian's allowance under section 38, where in respect of a child that allowance is payable to a person for a continuous period of 7 days and would have been payable to that person for the immediately preceding 7 days had he been entitled to child benefit in respect of that child for an earlier week, he shall be treated as if he were entitled to child benefit for that earlier week.

(4) If for any period a person who is in Great Britain could have been entitled to receive payment of an amount by way of a benefit or allowance or an increase of a benefit or an allowance under the Act in respect of a child but for the fact that in pursuance of any agreement with the government of a country outside the United Kingdom he, or his wife who is residing with him, is entitled in respect of the child in question to the family benefits of that country and is not entitled to child benefit, he shall for the purposes of entitlement to the said payment be treated as if he were entitled to child benefit for the period in question.

(5) The expression “earlier week” in paragraph (3) means the week immediately preceding the first week for which the person referred to in that paragraph was entitled to child benefit in respect of the child referred to in that paragraph.

(6) For the purposes of paragraph (1) the word “week” has the meaning assigned to it by section 24(1) of the Child Benefit Act; and for the purposes of paragraphs (1) and (2) a child shall not be regarded as living with a person unless he can be so regarded for the purposes of section 3 (meaning of “person responsible for child”) of the said Act.

### **Circumstances in which a person entitled to child benefit is to be treated as if he were not so entitled**

**3.—(1)** For the purposes of section 31 (child's special allowance), section 38 (guardian's allowance) or sections 41, 49 and 64(1) (benefit for beneficiary's dependent children) a person who is entitled to child benefit in respect of a child shall be treated as if he were not so entitled for—

- (a) any period throughout which—
  - (i) that person, not being a parent of the child, does not fall to be treated as responsible for the child under section 3(1)(a) of the Child Benefit Act, and
  - (ii) a parent of that child falls to be treated as responsible for the child under the said section 3(1)(a); or
- (b) any period throughout which—
  - (i) that person, not being a parent of that child, falls to be treated as responsible for the child under section 3(1)(a) of the Child Benefit Act, and
  - (ii) a parent of that child also falls to be treated as responsible for the child under the said section 3(1)(a); or
- (c) any day following the day on which that child died.

(2) Sub-paragraph (b) of paragraph (1) shall not apply in the case of a person who is wholly or mainly maintaining the child referred to in that sub-paragraph.

## **Amendment of the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974**

4. In the Social Security (Widow's Benefit and Retirement Pensions) Regulations 1974, as amended<sup>(1)</sup>, after regulation 13 there shall be inserted the following regulation:—

### **“Provision in relation to entitlement to child benefit for the purposes of a widowed mother's allowance**

**13A.**—(1) For the purpose of determining whether a woman who has been widowed satisfies the requirements of section 25(1)(a) of the Social Security Act 1975 (requirements relating to entitlement to a widowed mother's allowance under section 25) but for that purpose only—

- (a) any person under the age of 19 residing with the widow shall be deemed to be a child falling within section 25(2) of the said Act if the requirement in section 25(2)(a) thereof is satisfied in his case, or if the requirement in section 25(2)(b) or (c) thereof is so satisfied, or could have been so satisfied had he, immediately before the death of the widow's late husband, been under the age of 16 or not absent from Great Britain; and
- (b) a widow shall be treated as entitled to child benefit in respect of any person deemed in accordance with sub-paragraph (a) of this paragraph to be a child falling within the said section 25(2).”

(2) In determining whether a woman who has been more than once married and who was not residing with her late husband immediately before his death is entitled to a widowed mother's allowance under section 25 of the Social Security Act 1975, her late husband shall, for the purposes of section 25(2)(b) of that Act, be treated as having been entitled to child benefit in respect of any child in respect of whom—

- (a) a previous husband of that woman by a marriage which ended with that husband's death was, immediately before his death, entitled or treated as entitled to child benefit; and
- (b) that woman was entitled or treated as entitled to child benefit immediately before the death of her late husband.

(3) For the purposes of sub-paragraph (a) or (b) of paragraph (2), if the death there referred to occurred before 4th April 1977 the previous husband or, as the case may be, the woman, shall be treated as entitled to child benefit in respect of the child in question if he or she satisfied the relevant requirement in section 25(2)(c) of the Social Security Act 1975 as originally enacted.”

## **Amendment of the Social Security (General Benefit) Regulations 1974**

5.—(1) The Social Security (General Benefit) Regulations 1974, as amended<sup>(2)</sup>, shall be further amended in accordance with the following provisions.

(2) In paragraph (2) of regulation 1 (interpretation)—

- (a) after the definition of “the 1965 Act” there shall be inserted the following definitions:—
  - “the 1975 Act’ means the Social Security Act 1975;
  - ‘the Child Benefit Act’ means the Child Benefit Act 1975”;

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(1) There is no amendment relevant to the subject matter of these regulations.

(2) The relevant amending instruments are S.I. 1975/458, 2126 (1975 I, p. 1401; III, p. 7930).

- (b) after the definition of “the standard rate of increase” there shall be inserted the following definitions:—
- “ ‘child benefit’ means benefit under Part I of the Child Benefit Act;  
‘entitled to child benefit’ includes treated as so entitled;”
- (3) In regulation 3 (increase of certain benefits for female person having care of a child)—
- (a) in paragraph (1), for the words from “section 34(3)(c)” to the end of the paragraph there shall be substituted the words “section 44(3)(c) of the 1975 Act (increase of unemployment or sickness benefit or a maternity allowance in respect of a female person, not being a child, who has the care of a child or children in respect of whom the beneficiary is entitled to child benefit).”;
- (b) in paragraph (2)(a), for the words “of the beneficiary's family as specified in section 34(3)(c)” there shall be substituted the words “as specified in the said section 44(3)(c)”;
- (c) in paragraph (2)(d), for the words “of the beneficiary's family” there shall be substituted the words “in respect of whom the beneficiary is entitled to child benefit” and for “34(1)” there shall be substituted “44(1) of the 1975 Act”;
- (d) in paragraph (2)(e) for “43” there shall be substituted the words “131 of the 1975 Act”.
- (4) In regulation 4 (increase of pension for female person having care of child)—
- (a) in the opening words of paragraph (1), for “35(3)” there shall be substituted “46(2) of the 1975 Act” and for the words “of the pensioner's family” there shall be substituted the words “in respect of whom the pensioner is entitled to child benefit”;
- (b) in sub-paragraph (a) of paragraph (1), for the words from “a child or children” where those words first occur down to “(increases of benefit for child dependants)” there shall be substituted the words “such child or children”;
- (c) in sub-paragraph (b)(ii) of paragraph (1), for the words “of his family” there shall be substituted the words “in respect of whom the pensioner is entitled to child benefit”;
- (d) in sub-paragraph (d) of paragraph (1), for “43” there shall be substituted the words “131 of the 1975 Act”;
- (e) in paragraph (2), for “35(3)” in both places where it occurs there shall be substituted the words “the said section 46(2)”.
- (5) In regulation 6 (contribution to maintenance of adult dependant)—
- (a) in paragraph (1)—
- (i) for the words “section 34(1) or 35(1)” where they occur the first time there shall be substituted the words “section 44(1) or 45(2) of the 1975 Act” and where they occur the second time there shall be substituted the words “the said section 44(1) or 45(2)”;
- (ii) for the words “having the care of a child of the beneficiary's family” there shall be substituted the words “who has the care of a child or children in respect of whom the beneficiary is entitled to child benefit”;
- (b) in paragraph (2), for “34(1)” there shall be substituted “44(1) of the 1975 Act” and for “34(2)” there shall be substituted “44(2) of the 1975 Act”;
- (c) in paragraph (3), for “34(1)(b)” there shall be substituted “44(1)(b) of the 1975 Act”.
- (6) In regulation 8 (contribution towards cost of providing for child)—
- (a) in paragraph (1), for the words from “Where, apart from section 33(1)” down to “for the purposes of section 33(1)”, there shall be substituted the following words:—
- “Where, apart from section 43(1) of the 1975 Act, a person is entitled to receive, in respect of a particular child, payment under the 1975 Act of an amount by way of a child's special

allowance (section 31), or a guardian's allowance (section 38) or of an increase under any of the provisions of section 41 of any benefit for any period, and neither of the conditions set out in section 43(1), that is to say—

(a) that the beneficiary would be treated for the purposes of the Child Benefit Act as having the child living with him; or

(b) that the requisite contributions are being made to the cost of providing for the child, is satisfied, that person shall nevertheless for the purposes of the said section 43(1)”;

(b) for paragraph (2), there shall be substituted the following paragraph:—

“(2) Where, for the purposes of section 41 of the 1975 Act, a beneficiary, being a man, is entitled to an increase or allowance under the said section 41 in respect of both a child regarded for the purposes of the Child Benefit Act as living with him and a child who is not to be so regarded but who is the elder or eldest child, he shall be deemed for the purposes of section 43(1) of the 1975 Act to be making the requisite contribution to the cost of providing for such elder or eldest child if he contributes at a rate not less than the lowest rate at which the particular allowance or increase becomes payable in his case.”.

(7) In regulation 10 (allocation of contributions for wife or children)—

(a) in paragraph (1), “32(3)” shall be omitted and for “29(c)(i),” “33(1)(b),” “34(1)(a)(ii)” and “35(1)(b)” there shall be substituted “31(c)(i) of the 1975 Act”, “43(1)(b) of the 1975 Act”, “44(1)(a)(ii) of the 1975 Act” and “45(2)(b) of the 1975 Act” respectively;

(b) in paragraph (2), for the words from “the child or children” down to the end of the paragraph there shall be substituted the words “the wife is entitled to child benefit in respect of the child or children”;

(c) for paragraph (3), there shall be substituted the following paragraph:—

“(3) Except for the purposes of section 31(c)(i) of the 1975 Act (child's special allowance) the children to whom this regulation refers are any children in respect of whom, in the period for which the sum in question is paid by the person, that person is entitled to child benefit, or could have been treated as if he were so entitled to child benefit, or could have been treated as if he were so entitled by virtue of regulations, had he contributed to the cost of providing for the child at a sufficient weekly rate.”;

(d) in paragraph (4), for “29(c)(i)” and “29(b)” there shall be substituted “31(c)(i) of the 1975 Act” and “31(b) of the 1975 Act” respectively.

(8) In regulation 14, for the words “of the family, or” there shall be substituted the words “in respect of whom the payee is entitled to child benefit, or as being”.

(9) In paragraph (1) of regulation 15, the words from “so however that” to the end of the paragraph shall be omitted.

### **Amendment of the Social Security (Child's Special Allowance) Regulations 1975**

**6.—(1)** The Social Security (Child's Special Allowance) Regulations 1975, shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 1 (citation, commencement and interpretation) after paragraph (1) there shall be inserted the following paragraph:—

“(1A) In these regulations the expression “child benefit” means benefit under Part I of the Child Benefit Act 1975.”

(3) After regulation 3 there shall be added the following regulation:—

### **“Prescribed circumstances for purposes of section 31(b)(ii) of the Social Security Act 1975**

4. The condition specified in section 31(b)(ii) of the Social Security Act 1975 (woman entitled to child benefit to be entitled to a child's special allowance if her marriage has been terminated by divorce and the husband of that marriage was, in such circumstances as may be prescribed, entitled to child benefit in respect of a child immediately before his death) shall be regarded as satisfied where the child in question is a child of the marriage which was terminated by divorce; and in respect of any such child for whom child benefit would have been payable to the husband but for the fact that the child was not then in Great Britain, the husband shall be treated as having been entitled to child benefit immediately before his death.”

### **Amendment of the Social Security (Industrial Injuries) (Benefit) Regulations 1975**

7.—(1) The Social Security (Industrial Injuries) (Benefit) Regulations 1975 as amended(3), shall be further amended in accordance with the following provisions.

(2) In regulation 1(2) (interpretation)—

(a) after the definition of “the Act”, there shall be inserted the following definition:—

“‘the Child Benefit Act’ means the Child Benefit Act 1975”;

(b) after the definition of the “Secretary of State”, there shall be inserted the following definitions:—

“‘child benefit’ means benefit under Part I of the Child Benefit Act”;

“‘entitled to child benefit’ includes treated as so entitled”.

(3) In regulation 3 (injury benefit payable to persons who have not attained school-leaving age) for the words “school-leaving age” in the two places where these words occur there shall be substituted the words “the age of 16”.

(4) For regulation 16 (additional entitlement to higher permanent rate of widow's pension under section 67) there shall be substituted the following regulation:—

“16.—(1) The following provisions of this regulation shall apply in determining whether a woman is entitled to industrial death benefit at the higher permanent rate specified in paragraph 13(b) of Part V of Schedule 4 to the Act by virtue of satisfying the requirement in section 68(2)(a) (higher weekly rate of industrial death benefit payable to the widow of the deceased for a period for which she is entitled or treated as entitled to an allowance under section 70 (industrial death benefit for children)).

(2) The widow of the deceased shall be treated as entitled to an allowance under the said section 70 for any period during which she is residing with a person under the age of 19 in respect of whom the deceased—

(a) at his death was entitled to child benefit; or

(b) at the time of his death could have been entitled to child benefit or treated as having been so entitled had that person then been under the age of 16 or not absent from Great Britain; and,

where, at the expiration of such a period as aforesaid, the widow has attained the age of forty, she shall be treated as entitled to that allowance for any period thereafter.”

(5) For regulation 23 (priority of title to allowance or allowances under section 70) there shall be substituted the following regulation:—

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(3) The relevant amending instruments are S.I. 1976/1736, 1977/341 (1976 III, p. 4596; 1977 I, p. 1031).

“23. Where in respect of the same death each of 2 or more persons satisfies the conditions of section 70 for the receipt of an allowance in respect of the same child, the person entitled to the allowance shall, as between such persons, be determined subject to the provisions of paragraph 1(c) of Schedule 9 to the Act in accordance with the order of priority specified in Schedule 7 to these regulations.”.

(6) After regulation 23 there shall be inserted the following regulations:—

**“Circumstances in which higher rate of allowance under section 70(2) is payable to a person other than the widow of the deceased**

**23A.**—(1) For the purposes of section 70(2) (industrial death benefit at higher rate) for any period during which the conditions of paragraph (2) of this regulation are satisfied, a person, not being the widow of the deceased person, who is entitled to an allowance in respect of a child under section 70(1) shall be entitled to that allowance at the higher rate referred to in the said section 70(2).

(2) The conditions referred to in paragraph (1) are—

- (a) that the widow of the deceased is entitled to benefit under sections 67 and 68 in respect of the death of the deceased person; and
- (b) that the said widow was, immediately before the period referred to in paragraph (1), entitled to the higher rate of allowance provided for in section 70(2) in respect of the child; and
- (c) that the said widow has not ceased to reside with the child.

**Circumstances in which a deceased person who was not entitled to child benefit is to be treated as having been so entitled for the purposes of sections 70 or 73**

**23B.**—(1) A deceased person shall be treated, for the purposes of sections 70 or 73 as having been entitled to child benefit in respect of a child at his death, or as the case may be, throughout the period between the date of the relevant accident and his death, if—

- (a) that child was a legitimate son or daughter of the deceased and either the deceased or his spouse was living with the child or was contributing towards the cost of providing for the child at the appropriate rate or the deceased would, but for the relevant injury or disease, have so contributed; or
- (b) the child was an illegitimate son or daughter of the deceased and the deceased was either living with the child or was contributing towards the cost of providing for the child at the appropriate rate or would but for the relevant injury or disease have so contributed; or
- (c) the child, not being a son or daughter of the deceased, was wholly or mainly maintained by the deceased or would, but for the relevant injury or disease, have been so maintained; or
- (d) the child, not being a son or daughter of the deceased, was living at the time of the deceased's death with the deceased's spouse or was being maintained by that spouse at the appropriate rate and he or she was a child who at the time of the death of a person to whom the deceased's spouse had previously been married (and whose marriage to the deceased's spouse had been terminated by death) had been living with or maintained at the appropriate rate by that person; or
- (e) the child was a posthumous legitimate child of the deceased.

(2) The expression ‘appropriate rate’ in paragraph (1) means a weekly rate not less than the rate which would have been payable as child benefit in respect of an only, elder or eldest child.

**Circumstances in which a deceased person is to be treated as not having been entitled to child benefit for the purposes of sections 68 or 70**

**23C.** Notwithstanding that he was at his death entitled to child benefit in respect of a child, a deceased person shall be treated, for the purposes of section 68 (rate of widow's industrial death benefit) or section 70 (industrial death benefit for children) as having been not so entitled if—

- (a) that child was not his son or daughter; and
- (b) neither of the conditions set out in sub-paragraph (c) or (d) of the last foregoing regulation was fulfilled in relation to him; and
- (c) the child was not a step-child of the deceased.

**Circumstances in which a person is to be treated as if he were entitled to child benefit for the purposes of section 70**

**23D.—(1)** Any person to whom section 70 (industrial death benefit for children) applies shall, for the purposes of the said section 70, be treated as if he were entitled to child benefit in respect of a child if the period in question is one throughout which—

- (a) that person, or his spouse with whom he is residing, would have been entitled to child benefit in respect of that child had the child been born at the end of the week immediately preceding the week in which birth occurred; or
- (b) that person satisfies the conditions for entitlement to child benefit with the exception only of a condition in section 6(2) or section 13(3)(b) of the Child Benefit Act (period for which claim to child benefit may be effective and condition relating to presence in Great Britain respectively) or regulations<sup>(4)</sup> made under the latter section.

(2) For the purpose of determining whether a person is entitled to industrial death benefit for a child under section 70, where in respect of a child the said benefit is payable to a person for a continuous period of 7 days and would have been payable to that person for the immediately preceding 7 days had he been entitled to child benefit in respect of that child for an earlier week, he shall be treated as if he were entitled to child benefit for that earlier week.

(3) The expression 'earlier week' in paragraph (2) means the week immediately preceding the first week for which the person referred to in that paragraph was entitled to child benefit in respect of the child referred to in that paragraph.

(4) For the purposes of paragraph (1) the word 'week' has the meaning assigned to it by section 24(1) of the Child Benefit Act.

**Circumstances in which a person entitled to child benefit is to be treated as if he were not so entitled**

**23E.** For the purposes of section 70 (industrial death benefit for children) a person who is entitled to child benefit in respect of a child shall be treated as if he were not so entitled for any day following the day on which that child died.”.

(7) Regulation 26 (increase of benefit for female person having care of child) shall be amended in accordance with the following provisions of this paragraph:—

- (a) in the lead-in to regulation 26, and in paragraphs (2) and (3) of that regulation for the words “child or children of the beneficiary's family” there shall be substituted the words “child or children in respect of whom the beneficiary is entitled to child benefit”;

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(4) See regulation 5 S.I. 1976/963 (1976 II, p. 2507).



(b) in paragraph (5) the words “of his family or a child treated as such for the purposes of section 64 (increase of benefit in respect of children)” shall be omitted.

(8) For regulation 29 (contribution towards cost of providing for child) there shall be substituted the following regulation:—

“**29.**—(1) Where, apart from sections 65(1) and 70(4), a person is entitled to receive an increase of benefit or allowance under section 64 or 70 for any period in respect of a particular child and neither of the conditions set out in the following paragraph of this regulation is satisfied, that person shall nevertheless for the purposes of the said sections 65(1) and 70(4) be deemed as respects that period to be making the contributions so required at a weekly rate not less than that required by the said section 65(1) if—

- (a) he gives an undertaking in writing to make such contributions, and
- (b) on receiving the amount of the allowance or increase in question, he in fact makes such contributions.

(2) The conditions referred to in paragraph (1) are—

- (a) the person would be treated for the purposes of the Child Benefit Act as having the child living with him; or
- (b) contributions are being made to the cost of providing for the child at a rate equal to the amount of the relevant increase of benefit.

(3) Where, in respect of any period, the person referred to in this regulation fails to make the contributions which he has undertaken to make in accordance with the first paragraph of this regulation, the decision awarding the allowance or increase in question for that period in respect of the child shall be revised.

(4) Where, for the purposes of section 64(1), a beneficiary being a man, is entitled to an increase under the said section 64(1) in respect of both a child regarded for the purposes of the Child Benefit Act as living with him and a child who is not to be so regarded but who is the elder or eldest child, he shall be deemed for the purposes of section 65(1)(b) to be making the requisite contribution to the cost of providing for such elder or eldest child if he contributes at a rate not less than the lowest rate at which the particular increase becomes payable in his case.”.

(9) In regulation 31 (allocation of contributions for wife or children) there shall be made the following amendments:—

- (a) in regulation 31(1) the figures “64(4)” shall be omitted;
- (b) for paragraph (2) of regulation 31 there shall be substituted the following paragraph:—

“(2) The children to whom this regulation refers are any children in respect of whom, in the period for which the sum in question is paid by the person, that person is entitled to child benefit or could have been treated as so entitled by virtue of regulations made for the purposes of the above-mentioned sections of the Act had he contributed to the cost of providing for the child at a sufficient weekly rate.”;

- (c) in paragraph (3) of regulation 31, for all the words following “unless in either case” there shall be substituted “the wife is entitled to child benefit in respect of the child or children”.

(10) In paragraph 3(b) of Schedule 7 (order of priority of title to allowance under section 70) for the words “of the deceased's family” there shall be substituted the words “in respect of whom the deceased was entitled to child benefit”.

### **Amendment of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1975**

8. In regulation 18(1) of the Social Security (Industrial Injuries) (Prescribed Diseases) Regulations 1975 for the words “a child or children of the deceased’s family” there shall be substituted the words “a child or children in respect of whom the deceased was entitled to child benefit”.

### **Amendment of the Social Security (Guardian's Allowances) Regulations 1975**

9.—(1) The Social Security (Guardian's Allowances) Regulations 1975 shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 5 (children whose surviving parents are in prison or legal custody) paragraph (5) and sub-paragraph (b) of paragraph (7) shall be omitted.

(3) In regulation 6 (residence condition) for paragraphs (1) and (2) there shall be substituted the following paragraphs:—

“6.—(1) For the purposes of section 38(3) of the Act (no entitlement to guardian's allowance in respect of a child unless the prescribed conditions are satisfied) the prescribed conditions are that—

- (a) one at least of the child's parents was born in the United Kingdom; or
- (b) at the date of death of the parent (or other person) whose death gives rise to the claim for guardian's allowance, one at least of the child's parents had been present in Great Britain for at least 52 weeks in the aggregate out of any period of 2 years after attaining age 16.

(2) For the purposes of paragraph (1)(b) notwithstanding that on any day a person was absent from Great Britain he shall be treated as though he had been present in Great Britain if his absence was by reason only of the fact that on that day—

- (a) he was abroad in his capacity as—
  - (i) 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, as amended(5), or
  - (ii) an airman or mariner within the meaning of regulation 72 and regulation 77 respectively of those Regulations; or
- (b) he was in prescribed employment in connection with continental shelf operations within the meaning of regulation 76 of those Regulations.”.

(4) After regulation 6 there shall be inserted the following regulation:—

#### **“Prescribed manner of making an election under section 38 of the Act**

6A. An election under section 38(5) of the Act (payment of a guardian's allowance to either husband or wife unless she elects in the prescribed manner that payment is not to be made to him) shall be made by giving notice in writing to the Secretary of State at an office of the Department of Health and Social Security on a form approved by the Secretary of State or in such other manner, being in writing, as he may accept as sufficient in the circumstances of any particular case or class of cases.”.

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(5) The relevant amending instruments are S.I. 1975/1855, 1976/1, 507 (1975 III, p. 6983; 1976 I, pp. 1; 1480).

## **Amendment of the Social Security (Overlapping Benefits) Regulations 1975**

**10.**—(1) The Social Security (Overlapping Benefits) Regulations 1975, as amended<sup>(6)</sup>, shall be further amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (interpretation) after the definition of “the deceased” there shall be inserted the following definitions:—

“the Child Benefit Act’ means the Child Benefit Act 1975;

‘child benefit’ means benefit under Part I of the Child Benefit Act;”.

(3) In regulation 6 (adjustment of dependency benefit in respect of a child where other dependency benefit is payable for that child)—

(a) in paragraph (1), after the word “allowance” there shall be inserted the words “or is a guardian’s allowance under section 38, the other dependency benefit not being benefit under either the said section 38 or 70,”;

(b) in paragraph (4)—

(i) after the word “allowance”, there shall be inserted the words “or is a guardian’s allowance”,

(ii) after the word “other” there shall be inserted the word “dependency”,

(iii) after the words “death benefit” where it last occurs there shall be inserted the words “or, as the case may be, guardian’s allowance”.

(4) After the said regulation 6 there shall be inserted the following regulation:—

### **“Adjustment of dependency benefit in respect of a child where increase in the weekly rate of child benefit is payable for that child**

**6A.**—(1) Subject to paragraph (2), for any period for which child benefit is payable at an increased rate by virtue of regulation 2(2) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976 and for the same period in respect of the same child any benefit or allowance or an increase of a benefit or allowance under the Act or any allowances under the Industrial Injuries and Diseases (Old Cases) Act 1975 would, but for this regulation, be payable to a beneficiary at the rate applicable in the case of an only, elder or eldest child, the weekly rate of such benefit or allowance or of any increase thereof shall be reduced by the amount of the increase payable by virtue of the said regulation 2(2).

(2) Paragraph (1) shall not apply where the beneficiary satisfies the requisite contribution conditions for the purposes of sections 43(1) and 65(1) of the Act by virtue only of regulation 5(4) of the Social Security Benefit (Dependency) Regulations 1977 (circumstances in which a person is entitled in respect of a child not living with him to an increase of benefit or allowance at the weekly rate appropriate to an only, elder or eldest child notwithstanding that he is not contributing to the cost of providing for that child at a weekly rate not less than that of the increase of benefit).”.

(5) For regulation 12 there shall be substituted the following regulation:—

### **“Priority between persons entitled to increase of benefit**

**12.**—(1) Subject to paragraphs (5) and (6), the following provisions shall apply for the purpose of determining priority as between two persons entitled to an increase of benefit under the Act in respect of a third person.

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<sup>(6)</sup> The relevant amending instruments are S.I. 1976/409, 1736 (1976 I, p. 1087; III, p. 4596).

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(2) Where, but for the provisions of this paragraph, a man and his wife would both be entitled to an increase of retirement pension (being an increase of a Category A or Category C pension in his case and a Category B or Category C pension in hers) in respect of one child only (“the increase”) or in respect of different children at the rate applicable in the case of an only, elder or eldest child (“increase at the higher rate”) that man shall, and his wife shall not, be entitled to the increase or, as the case may be, to any increase at the higher rate; and he shall be treated as so entitled during any period for which he would be entitled but for the operation of any provision of the Act, with the exception of section 82(5)(b) (disqualification while undergoing imprisonment or detention) disqualifying him for receipt of benefit.

(3) Subject to paragraphs (5) and (6), where, but for the provisions of this paragraph, more than one person would be entitled to an increase of benefit in respect of the same child for the same period—

- (a) in a case where one of those persons has been awarded child benefit in respect of a child for that period, that one of them shall be entitled to the said increase;
- (b) in a case where sub-paragraph (a) above does not apply but where the child is living with one and no other of those persons for that period, that one of them with whom the child is living shall be entitled to the said increase;
- (c) in a case where neither sub-paragraph (a) nor sub-paragraph (b) above applies but where one of those persons is a parent of the child, that one of them shall be entitled to the said increase.

(4) Subject to paragraphs (5) and (6), where, but for the provisions of this paragraph, more than one person would be entitled to an increase of benefit in respect of an adult dependant for the same period—

- (a) in a case where one of those persons is the spouse of the adult dependant that one of them shall be entitled to the said increase;
- (b) in a case where sub-paragraph (a) above does not apply that one of them with whom the adult dependant is residing shall be entitled to the said increase.

(5) Nothing in paragraphs (3) and (4) shall prevent a written notice signed by one or, as the case may be, a majority of the said persons designating another of them as the person to be entitled to the increase, being sent to the Secretary of State; so however that such notice shall not be effective to confer entitlement to an increase in respect of any period for which such increase has already been paid to someone other than the person so designated.

(6) Nothing in paragraphs (3) and (4) shall prevent a person who, in accordance with any of those paragraphs, is not entitled to an increase from being paid an amount equivalent to the amount, if any, by which the increase which would otherwise have been paid to such person exceeds the increase payable to the person entitled by virtue of any of the said paragraphs.”.

### **Amendment of the Social Security (Hospital In-Patients) Regulations 1975**

**11.**—(1) The Social Security (Hospital In-Patients) Regulations 1975, as amended<sup>(7)</sup>, shall be further amended in accordance with the following provisions of this regulation.

(2) In regulation 11 (adjustment of dependency benefit after 52 weeks in hospital) for the words “beneficiary's family” in paragraphs (2)(iii) and (5)(b)(i), there shall be substituted the word “beneficiary”.

(3) In regulation 19 (treatment of age addition) there shall be omitted the words “in his or her family”.

(4) In paragraph (e)(iii) of the Schedule, there shall be omitted the words “in his or her family”.

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(7) There is no amendment relevant to the subject matter of these regulations.

### **Amendment of the Social Security (Claims and Payments) Regulations 1975**

12. In the Social Security (Claims and Payments) Regulations 1975, as amended(8), in regulation 7 (information to be given when making a claim for benefit) there shall be made the following amendments—

- (a) in paragraph (2), for the words “the child is or may be treated as included in that person's family” there shall be substituted the words “that person is entitled or may be treated by regulations as if he were entitled to child benefit in respect of that child”;
- (b) in paragraph (4)(a), for the words “the child was a child of the family of that person”, there shall be substituted the words “that person was entitled to child benefit in respect of the child”;
- (c) after paragraph (4) there shall be inserted the following paragraph—

“(5) In this regulation the expression “child benefit” means benefit under Part I of the Child Benefit Act 1975.”.

### **Amendment of the Social Security Benefit (Persons Abroad) Regulations 1975**

13.—(1) The Social Security Benefit (Persons Abroad) Regulations 1975, as amended(9), shall be further amended in accordance with the following provisions of this regulation.

- (2) In paragraph (2) of regulation 1 (interpretation)—
  - (a) after the definition of “the Act” there shall be inserted the following definition—

“‘the Child Benefit Act’ means the Child Benefit Act 1975”;
  - (b) after the definition of “widow's benefit” and “widow's pension” there shall be added the following definitions—

“‘child benefit’ means benefit under Part I of the Child Benefit Act;

“‘entitled to child benefit’ includes treated as so entitled;”.
- (3) In regulation 5 (application of disqualification in respect of up-rating of benefit)—
  - (a) in paragraph (3), after sub-paragraph (e) there shall be added the following sub-paragraph—

“(f) any additional guardian's allowance in respect of a child if he were entitled to that allowance in respect of that child before the appointed date.”.
  - (b) paragraph (4) shall be omitted.
- (4) In regulation 7(1)(j) (modification of the Act in relation to death grant) there shall be substituted for the words from “child of the family” down to the end of the sub-paragraph, the words “‘entitled to child benefit’ or ‘entitled at that person's death to child benefit’ contained in section 32(2) shall be deemed to include cases where child benefit would have been payable but for the provisions of section 13(2)(a) of the Child Benefit Act (subject to regulations, benefit not to be payable in respect of a child for any week unless that child is in Great Britain in that week); or”.
- (5) After regulation 13 there shall be inserted the following regulation:—

#### **“Modification of the Act in relation to title to benefit for beneficiary's child dependants**

13A.—(1) By reason only of the fact that he is not entitled to child benefit in respect of a child, a person shall not be disentitled from receiving a benefit or an allowance or an increase of a benefit or an allowance under the Act in respect of a child (hereafter in this regulation referred to as “child dependency benefit”) in respect of that child for any period during which

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(8) There is no amendment relevant to the subject matter of these regulations.

(9) There is no amendment relevant to the subject matter of these regulations.

he and the child are, or the child is, absent from Great Britain in a country in circumstances in which he would, in pursuance of any agreement with the government of a country outside the United Kingdom, be entitled to receive child dependency benefit in respect of the child were he entitled to child benefit in respect of the child if—

- (a) he would, or could, had he made an appropriate claim, have been entitled to child benefit in respect of the child had all the requirements of section 13(2) and (3) of the Child Benefit Act (requirements as to presence in Great Britain) been satisfied; and
- (b) in a case where he would not be treated for the purposes of the Child Benefit Act as having the child living with him, he is contributing to the cost of providing for the child, in addition to any contribution he may be required to make under the Act, at a weekly rate not less than that of the child benefit which would be payable to him in respect of the child were child benefit so payable to him; and
- (c) no other person is entitled to child benefit in respect of the child.

(2) For any period during which a person who is absent from Great Britain would satisfy the requirements of paragraph (1) in relation to a child but for the fact that that child is present in Great Britain, that child shall, for the purposes of that paragraph, be treated as being present in the country in which that person is.

(3) By reason only of the fact that he is not entitled to child benefit in respect of a child, a person shall not be disentitled from receiving child dependency benefit in respect of that child for any period during which he or the child is, or both of them are, absent from Great Britain in circumstances in which, otherwise than in pursuance of such an agreement as is referred to in paragraph (1) or of regulations made under section 142 of the Act (co-ordination with Northern Ireland) were he entitled to child benefit in respect of the child he would be entitled to receive child dependency benefit in respect of the child if—

- (a) he would, or could had he made an appropriate claim, have been entitled to child benefit in respect of the child had all the requirements of section 13(2) and (3) of the Child Benefit Act (requirements as to presence in Great Britain) been satisfied; and
- (b) in a case where he would not be treated for the purposes of the Child Benefit Act as having the child living with him, he is contributing to the cost of providing for the child, in addition to any contribution he may be required to make under the Act, at a weekly rate not less than that of the child benefit which would be payable to him in respect of the child were child benefit so payable to him; and
- (c) he establishes that any absence from Great Britain of himself or the child was, when it began, intended to be temporary and has throughout continued to be temporary; and
- (d) no other person is entitled to child benefit in respect of the child.

(4) For the purpose of paragraph (1), such a person or child as is there referred to may be treated as being absent from Great Britain notwithstanding that he has not previously been present in Great Britain; and for the purposes of paragraph (3), a child born during the absence from Great Britain of his mother shall, if she was pregnant of that child at a time when she was present in Great Britain, be treated as having been present in Great Britain on the date on which his mother was last present in Great Britain before the child was born.

(5) Where a person—

- (a) immediately before returning to Great Britain was entitled to receive child dependency benefit in respect of a child; and
- (b) would on his return to Great Britain have continued to be entitled to receive child dependency benefit in respect of that child were he entitled to child benefit in respect of the child,

he shall not be disentitled from receiving child dependency benefit in respect of the child by reason only of the fact that he is not entitled to child benefit in respect of the child if—

- (i) he would, or could had he made an appropriate claim, have been entitled to child benefit in respect of the child had all the requirements of section 13(2) and (3) of the Child Benefit Act (requirements as to presence in Great Britain) been satisfied; and
- (ii) in a case where he would not be treated for the purposes of the Child Benefit Act as having the child living with him, he is contributing to the cost of providing for the child, in addition to any contribution he may be required to make under the Act, at a weekly rate not less than that of the child benefit which would be payable to him in respect of the child were child benefit so payable to him; and
- (iii) no other person is entitled to child benefit in respect of the child.

(6) Where a person who was absent from Great Britain immediately before 4th April 1977 (the date on which child benefit first becomes payable) or a subsequent date on which the rate or any of the rates of child benefit is or are increased—

- (a) is entitled to receive child dependency benefit in respect of a child for a continuous period beginning before and continuing after that date; and
- (b) no other person is entitled to child benefit in respect of that child for that period,

any provision made pursuant to section 17(1) or (4) of the Child Benefit Act whereby, having regard to the introduction of child benefit or to an increase in the rate or any of the rates of child benefit, the weekly rate of child dependency benefit payable in respect of that child would be subject to a reduction shall not have effect so as (by reason only of that reduction) to reduce the total weekly rate of benefit (including benefit (if any) which is not child dependency benefit payable in respect of that child) payable to that person below the total weekly rate of such benefit payable to him immediately before that date.”.

#### **Amendment of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1975**

**14.** In regulation 14 of the Social Security (Unemployment, Sickness and Invalidity Benefit) Regulations 1975, as amended<sup>(10)</sup>, (partial satisfaction of contribution conditions and reduced rates of benefit) for the words “Column (4)” in paragraph (3)(b), there shall be substituted the words “column (3)”.

#### **Amendment of the Social Security (Attendance Allowance) (No. 2) Regulations 1975**

**15.—**(1) The Social Security (Attendance Allowance) (No. 2) Regulations 1975 shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2 (entitlement conditions relating to residence and presence in Great Britain) for paragraph (2) there shall be substituted the following:—

“(2) For the purposes of paragraph (1)(b) and (c) notwithstanding that on any day a person is absent from Great Britain he shall be treated as though he were present in Great Britain if his absence is by reason only of the fact that on that day—

- (a) he is abroad in his capacity as—

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<sup>(10)</sup> There is no amendment relevant to the subject matter of these regulations.

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- (i) 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, as amended<sup>(11)</sup>, or
  - (ii) an airman or mariner within the meaning of regulation 72 and regulation 77 respectively of those Regulations; or
  - (b) he is in prescribed employment in connection with continental shelf operations within the meaning of regulation 76 of those Regulations; or
  - (c) he is living with a person mentioned in sub-paragraph (a)(i) and is the spouse, son, daughter, father, father-in-law, mother or mother-in-law of that person; or
  - (d) his absence from Great Britain is, and when it began was, for a temporary purpose and has not lasted for a continuous period exceeding 26 weeks; or
  - (e) his absence from Great Britain is temporary and for the specific purpose of his being treated for incapacity, or a disabling condition, which commenced before he left Great Britain, during such period as is reasonable in all the circumstances of the case.”.
- (3) In regulation 7 (children in hospital and certain other accommodation) for sub-paragraph (ii) of paragraph (1)(a) there shall be substituted the following sub-paragraph:—
- “(ii) where child benefit under the Child Benefit Act 1975 is payable to that person, any contribution necessary for the purpose of satisfying the requirement in section 3(1)(b) of that Act; and”.

#### **Amendment of the Social Security (Non-Contributory Invalidity Pension) Regulations 1975**

**16.** In the Social Security (Non-Contributory Invalidity Pension) Regulations 1975, as amended<sup>(12)</sup>, for paragraph (2) of regulation 3 (conditions relating to residence and presence) there shall be substituted the following paragraph:—

“(2) For the purposes of paragraph (1)(a) or (b) notwithstanding that on any day a person is absent from Great Britain he shall be treated as though he were present in Great Britain if his absence is by reason only of the fact that on that day—

- (a) he is abroad in his capacity as—
  - (i) 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, as amended<sup>(13)</sup>, or
  - (ii) an airman or mariner within the meaning of regulation 72 and regulation 77 respectively of those Regulations; or
- (b) he is in prescribed employment in connection with continental shelf operations within the meaning of regulation 76 of those Regulations; or
- (c) he is living with a person mentioned in sub-paragraph (a)(i) and is the spouse, son, daughter, father, father-in-law, mother or mother-in-law of that person.”.

#### **Amendment of the Mobility Allowance Regulations 1975**

**17.—(1)** The Mobility Allowance Regulations 1975 shall be amended in accordance with the following provisions of this regulation.

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<sup>(11)</sup> The relevant amending instruments are S.I. 1975/1855, 1976/1, 507 (1975 III, p. 6953; 1976 I, pp. 1; 1480).

<sup>(12)</sup> There is no amendment relevant to the subject matter of these regulations.

<sup>(13)</sup> The relevant amending instruments are S.I. 1975/1855, 1976/1, 507 (1975 III, p. 6953; 1976 I, pp. 1; 1480).



(2) In regulation 2 (entitlement conditions as to residence and presence in Great Britain) for paragraph (3) there shall be substituted the following paragraph:—

“(3) For the purposes of paragraph (1)(b) and (c) notwithstanding that on any day a person is absent from Great Britain he shall be treated as though he were present in Great Britain if his absence is by reason only of the fact that on that day—

- (a) he is abroad in his capacity as—
  - (i) 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, as amended(14), or
  - (ii) an airman or mariner within the meaning of regulation 72 and regulation 77 respectively of those Regulations; or
- (b) he is in prescribed employment in connection with continental shelf operations within the meaning of regulation 76 of those Regulations; or
- (c) he is living with a person mentioned in sub-paragraph (a)(i) and is the spouse, son, daughter, father, father-in-law, mother or mother-in-law of that person; or
- (d) his absence from Great Britain is, and when it began was, for a temporary purpose and has not lasted for a continuous period exceeding 26 weeks; or
- (e) his absence from Great Britain is temporary and for the specific purpose of his being treated for incapacity, or a disabling condition, which commenced before he left Great Britain, during such period as is reasonable in all the circumstances of the case.”.

(3) In regulation 21 (children) for sub-paragraph (b) of paragraph (4) there shall be substituted the following:—

“(b) during which the child is absent by reason only of the fact that he is receiving full-time education at a school; or”.

### **Amendment of the Social Security (Invalid Care Allowance) Regulations 1976**

**18.**—(1) The Social Security (Invalid Care Allowance) Regulations 1976 shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 9 (conditions relating to residence and presence in Great Britain) for paragraph (3) there shall be substituted the following paragraph:—

“(3) For the purposes of paragraph (1)(b) and (c) notwithstanding that on any day a person is absent from Great Britain he shall be treated as though he were present in Great Britain if his absence is by reason only of the fact that on that day—

- (a) he is abroad in his capacity as—
  - (i) 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, as amended(15), or
  - (ii) an airman or mariner within the meaning of regulation 72 and regulation 77 respectively of those Regulations; or
- (b) he is in prescribed employment in connection with continental shelf operations within the meaning of regulation 76 of those Regulations; or
- (c) he is living with a person mentioned in sub-paragraph (a)(i) and is the spouse, son, daughter, father, father-in-law, mother or mother-in-law of that person.”.

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(14) The relevant amending instruments are S.I. 1975/1855; 1976/1, 507 (1975 III, p. 6983; 1976 I, pp. 1; 1480).

(15) The relevant amending instruments are S.I. 1975/1855; 1976/1, 507 (1975 III, p. 6983; 1976 I, pp. 1; 1480).

(3) For regulation 12 (increase of invalid care allowance for child dependants) there shall be substituted the following regulation:—

**“Increase of invalid care allowance for child dependants**

**12.**—(1) For the purposes of increases of invalid care allowance for child dependants under section 49 of the Act, the prescribed circumstances in which a beneficiary is entitled to such an increase for any period shall be as set out in the following paragraphs of this regulation.

(2) The weekly rate of an invalid care allowance for any period for which the beneficiary is entitled, or is treated as entitled, to child benefit in respect of a child or children shall be increased in respect of that child, or each respectively of those children, by the appropriate amount specified in relation to that allowance in column (2) of Part IV of Schedule 4 to the Act.

(3) Where a person is entitled to receive payment of an amount by way of an increase of an invalid care allowance under paragraph (2) of this regulation, that increase shall not be payable unless one of the following conditions is satisfied—

- (a) that the beneficiary would be treated for the purposes of the Child Benefit Act 1975 as having the child living with him; or
- (b) that the requisite contributions are being made to the cost of providing for the child.

(4) The condition specified in paragraph (3)(b) above is to be treated as satisfied if, but only if—

- (a) such contributions are being made at a weekly rate not less than the amount referred to in paragraph (2) of this regulation—
  - (i) by the beneficiary, or
  - (ii) where the beneficiary is one of two spouses residing together, by them together; and
- (b) the contributions are over and above those required for the purpose of satisfying subsection (1)(b) of section 3 of the Child Benefit Act 1975.

(5) Any sum or sums paid by a person by way of contribution towards the cost of providing for two or more children being children in respect of whom, in the period for which the sum in question is paid by the person, he is entitled to child benefit or is treated as so entitled, shall be treated as such contributions, of such respective amounts equal in the aggregate to the said sum or sums, in respect of those children so as to secure as large a payment as possible by way of invalid care allowance in respect of them.”

(4) In regulation 13 (increase of invalid care allowance for adult dependants), in paragraph (2)—

- (a) for “column (4)” there shall be substituted “column (3)”;
- (b) for the words “of the beneficiary's family within the meaning of regulation 12 of these regulations” there shall be substituted the words “in respect of whom the beneficiary is entitled to child benefit”;
- (c) for the words “a child or children of his family” there shall be substituted the words “a child or children in respect of whom the beneficiary is entitled to child benefit”.

**Transitional provision as respects conditions related to the death of a person**

**19.**—(1) This regulation shall apply for the purposes of the requirement in section 25(2)(b) or (c) (widowed mother's allowance), section 31(b)(i) or (ii) (child's special allowance), section 32(2) (c) (death grant), section 70(1) (industrial death benefit for children of a deceased person), or section 73(1) (industrial death benefit for woman having care of deceased's children) related to the death of a person.

(2) Where the death of a person has occurred before 4th April 1977, the requirement in the said section 25(2)(b) or (c), 31(b)(i) or (ii), 32(2)(c), 70(1) or 73(1) relating to the deceased's entitlement to child benefit shall be deemed to have been satisfied if—

- (a) a comparable requirement in force at the time of that person's death was satisfied; or
- (b) it could have been satisfied had the Act and the Child Benefit Act and provisions made under those Acts, in force on 4th April 1977, been in force immediately before the date of that person's death.

(3) In determining whether a deceased person satisfied the requirement in section 73(1) (industrial death benefit for woman having care of deceased's children) that at the date of the relevant accident and throughout the period between that date and his death he was entitled to child benefit in respect of a child or children, in a case where the relevant accident occurred before 4th April 1977 and the death has occurred on or after that date, that requirement shall be deemed to be satisfied if, but only if, it could have been satisfied had the Act and the Child Benefit Act and provisions made under those Acts, in force on 4th April 1977, been in force throughout the relevant period.

#### **Transitional provision as respects preservation of entitlement to benefit in payment before 4th April 1977 for a child dependant**

20. Where—

- (a) immediately before 4th April 1977 a person is absent from Great Britain other than temporarily; and
- (b) as respects a period before and including 3rd April 1977 he satisfies the conditions then in force for, and is entitled to receive, payment of an amount by way of a benefit or allowance or an increase of a benefit or an allowance under the Act in respect of a child who is ordinarily resident in Great Britain; and
- (c) would cease, as from 4th April 1977, to be entitled to that payment by reason of the fact that he does not satisfy one of the conditions for receiving such a payment, namely, that he is entitled to child benefit in respect of that child,

that person shall, for any period beginning not earlier than 4th April 1977 during which he would, or could had he made an appropriate claim, be entitled to child benefit in respect of that child were he not absent from Great Britain, be treated as so entitled while he continues to satisfy all other conditions applicable to such a payment (including making contributions to the cost of providing for that child over and above those that would have been required for the purpose of satisfying subsection (1)(b) of section 3 of the Child Benefit Act) unless subsequent to 4th April 1977 he becomes ordinarily resident in Great Britain.

#### **Transitory provision**

21.—(1) Where at any time after 3rd April 1977 but before 4th April 1978 a person makes a claim for child dependency benefit in respect of a child (that is to say makes a claim for a benefit or an allowance or an increase of a benefit or an allowance under the Act in respect of a child) that person may be treated as if he were entitled to child benefit in respect of that child for a continuous period not exceeding 2 months (3 months if that claim is made before 4th July 1977) beginning with the date with effect from which the child dependency benefit is claimed or 4th April 1977, whichever is the later if—

- (a) a claim to child benefit has been made in respect of that child;
- (b) the determining authority is satisfied that that period is one in respect of which that person is likely to be entitled or (otherwise than by virtue of this paragraph) treated as if he were entitled to child benefit in respect of that child; and

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(c) in a case where the claim for child dependency benefit is made after 3rd July 1977, that claim was made within a period of 1 month beginning with the day on which the child in question was born.

(2) In paragraph (1) “determining authority” means, as the case may require, an insurance officer appointed under section 97(1), a local tribunal constituted under section 97(2), or a Commissioner.

### **Revocations**

**22.** The regulations specified in column 1 of the Schedule to these regulations are hereby revoked to the extent mentioned in column 3 thereof.

Signed by Authority of the Secretary of State for Social Services.

1st March 1977

*Stanley Orme*  
Minister for Social Security  
Department of Health and Social Security