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STATUTORY INSTRUMENTS

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**1977 No. 343**

**The Social Security Benefit (Dependency) Regulations 1977**

**PART II**

**CHILD DEPENDANTS**

**Contribution towards cost of providing for child**

5.—(1) Where, apart from section 43(1), 65(1) or 70(4), a person is entitled to receive, in respect of a particular child, payment under the 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, or payment of an increase or allowance of any amount under section 64 or section 70, for any period, and neither of the conditions set out in the following paragraphs is satisfied, that person shall nevertheless for the purposes of the said section 43(1), 65(1) or 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 43(1) or 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 increase or allowance in question for that period in respect of the child shall be revised.

(4) Where for the purposes of section 41, 49(a) or 64(1) (benefit for beneficiary's dependent children) a beneficiary, being a man, is entitled to an increase under the said section 41, 49(a) or 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 43(1) or 65(1) 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 or allowance becomes payable in his case.

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

6.—(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 in respect of that child 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**

7.—(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 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.