
 STATUTORY INSTRUMENTS

1984 No. 1960

SOCIAL SECURITY

The Child Benefit (Claims and Payments) Regulations 1984

<i>Made - - - -</i>	14th December 1984
<i>Laid before Parliament</i>	21st December 1984
<i>Coming into Operation</i>	21st January 1985

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SCHEDULE 1 – Benefits under the Social Security Act, claims for which may be interchanged with a claim to child benefit.

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The Secretary of State for Social Services, in exercise of the powers conferred upon him by sections 6(1) and (3) to (5), 7(1)(b), 11(2) and 22(1)(b) of the Child Benefit Act 1975(a), and of all other powers enabling him in that behalf and for the purposes only of consolidating the regulations revoked by this instrument, hereby makes the following regulations:—

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Child Benefit (Claims and Payments) Regulations 1984 and shall come into operation on 21st January 1985.

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

“the Act” means the Child Benefit Act 1975;

“the Social Security Act” means the Social Security Act 1975(b);

“benefit” means child benefit under the Act;

“claim” means a claim to benefit and “claiming” shall be construed accordingly;

“the Department” means the Department of Health and Social Security;

“determining authority” means, as the case may require, the Chief or any other adjudication officer, a social security appeal tribunal, the Chief or any other Social Security Commissioner or a tribunal of three such Commissioners constituted in accordance with section 116 of the Social Security Act, as applied to appeals concerning child benefit by regulation 73(1)(a) of the Social Security (Adjudication) Regulations 1984 (c).

“increase” means an increase in the weekly rate of benefit under regulation 2(2) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976 (d);

“instrument of payment” means a serial order or any other instrument whatsoever which is intended to enable a person to obtain payment of benefit;

“serial order” means one of a series of orders for the payment of sums on account of benefit which is or has been contained in a book of such orders,

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

(3) A separate claim shall be required for an increase, except that where a person claims benefit other than an increase in respect of a child having previously claimed for an increase in respect of that child his claim for an increase shall be regarded as a claim to benefit including an increase.

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

(a) 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;

(a) 1975 c.61.

(b) 1975 c.14.

(c) S.I. 1984/451, to which there are amendments not relevant to these regulations.

(d) S.I. 1976/1267; relevant amending instruments are S.I. 1980/110, 1984/1106.

- (b) 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.

PART II

CLAIMS

Manner in which claims are to be made

2.—(1) Every claim shall be made in writing to the Secretary of State on a form approved by the Secretary of State or in such other manner, being in writing, as the Secretary of State may, in his discretion, accept as sufficient in the circumstances of any particular case or class of cases, and shall be delivered or sent to an office of the Department.

(2) The date on which a claim is made shall be the date on which it is received in an office of the Department (hereafter in this paragraph referred to as “the relevant date”), so however that if the Secretary of State is aware that a claim which has been sent by post has not been delivered in the ordinary course of post he may treat the claim as having been made on a date earlier than the relevant date, being, whichever is the later, the date on which the claim would have been made had it been delivered in the ordinary course of post or a date 13 weeks before the relevant date.

(3) Forms of claim shall be supplied without charge by such persons as the Secretary of State may appoint or authorise for that purpose.

(4) If a claim on the form approved is defective at the date when it is received at an office of the Department or has been made otherwise than on the form approved for the time being, the Secretary of State may, in his discretion, refer the claim to the person making it or, as the case may be, supply him with the approved form, and if the form is returned properly completed within one month from the date on which it is so referred or supplied the Secretary of State shall treat the claim as if it had been duly made in the first instance.

(5) A person who has made a claim may amend his claim at any time before a determination has been made on it by a notice in writing delivered or sent to an office of the Department and any claim so amended may be treated as if it had been made as so amended in the first instance.

(6) A person who has made a claim may withdraw it at any time before a determination has been made on it by a notice in writing delivered or sent to an office of the Department and the said notice shall have effect when it is received in the Department.

(7) Any reference in the Act or in regulations to the date on which a claim is made shall, in the case of a claim which is treated—

- (a) as having been made on a date earlier than the relevant date under paragraph (2), be construed as a reference to that earlier date; and
- (b) as if it had been duly made in the first instance under paragraph (4) or (5), be construed as a reference to the date on which it was first received in an office of the Department.

Information in support of claim

3.—(1) Every person making a claim shall furnish such certificates, documents, information and evidence in connection with the claim as may be required by the Secretary of State and, if reasonably so required, shall for that purpose attend at such office of the Department or other place as the Secretary of State may direct.

(2) Where, in the case of a husband and wife residing together, a claim is made by the husband and not by the wife, the Secretary of State may require the husband to furnish him with a written statement, signed by the wife, that she does not wish to make a claim.

Advance claims and awards

4.—(1) If on the date on which a claim is made by a person in respect of a child that person does not satisfy the requirements for entitlement to benefit in respect of that child but the determining authority is of the opinion that that person is likely to satisfy those requirements for a period beginning on a day (hereafter in this regulation referred to as “the relevant day”) not more than 56 days after the date on which the claim is made, then that determining authority may—

- (a) treat the claim as if made for a period beginning with the relevant day; and
- (b) award benefit accordingly, subject to the condition that the person satisfies the requirements for entitlement when benefit becomes payable under the award.

(2) An award under paragraph (1)(b) may be reviewed by the determining authority if the requirements for entitlement are found not to have been satisfied on the relevant day.

Interchange with claims for benefit under the Social Security Act

5.—(1) Where it appears that a person who in accordance with these regulations has claimed child benefit in respect of a child may be entitled alternatively or in addition to any benefit specified in Schedule 1 to these regulations in respect of the same child, the Secretary of State may, in his discretion, treat the claim to child benefit as a claim by that person for the benefit in question specified in the said Schedule.

(2) Where it appears that a person who in accordance with regulations made under the Social Security Act has claimed any benefit specified in the said Schedule in respect of a child may be entitled alternatively or in addition to child benefit in respect of the same child, the Secretary of State may, in his discretion, treat the claim for the benefit in question as a claim by that person to child benefit.

PART III

PAYMENTS

Payment of benefit

6.—(1) Subject to the provisions of this regulation and of regulations 7 and 8, benefit shall be payable as follows:—

- (a) in a case where the person entitled to benefit elects to receive payment weekly, in accordance with the provisions of regulation 8, benefit shall be payable weekly from the first convenient date after the election has been made;
 - (b) in any other case benefit shall be payable in the last week of each successive period of four weeks of the period of entitlement.
- (2) Subject to paragraph (3) and regulation 7(3), benefit payable weekly or four-weekly shall be payable on Mondays or Tuesdays (as the Secretary of State may in his discretion in any case determine) by serial orders.
- (3) In such cases or class of cases as the Secretary of State may, in his discretion, determine, benefit shall be payable otherwise than—
- (a) by means of serial orders, or
 - (b) on Mondays or Tuesdays, or
 - (c) at weekly or four-weekly intervals,

and where benefit is being paid at four-weekly intervals in accordance with paragraph 1(b) the Secretary of State shall arrange for it to be paid weekly if satisfied that payment at intervals of four weeks is causing hardship.

(4) The Secretary of State shall take steps to notify persons to whom benefit is payable of the arrangements he has made for payment so far as those arrangements affect such persons.

(5) Instruments of payment and books of serial orders issued by the Secretary of State shall remain his property; and any person having such an instrument of payment or book of serial orders shall, on ceasing to be entitled to the benefit to which such instrument or book relates or when so required by the Secretary of State, deliver the instrument or book to the Secretary of State or to such other person as he may direct.

Payment of benefit by direct credit transfer

7.—(1) Subject to the provisions of this regulation, benefit may, on the application of the person claiming, or entitled to it, and with the consent of the Secretary of State, be paid by way of automated or other direct credit transfer into a bank or other account—

- (a) in the name of the person entitled to benefit, or his spouse, or a person acting on his behalf, or
 - (b) in the joint names of the person entitled to benefit and his spouse, or the person entitled to benefit and a person acting on his behalf.
- (2) An application for the benefit to be paid in accordance with paragraph (1)—
- (a) shall be in writing on a form approved for the purpose by the Secretary of State or in such other manner, being in writing, as he may accept as sufficient in the circumstances, and
 - (b) shall contain a statement or be accompanied by a written statement made by the applicant declaring that he has read and understood the conditions applicable to payment of benefit in accordance with this regulation and in particular that he has understood the effect that paragraph (6) would have in the event of any overpayment of benefit.
- (3) Benefit shall be paid in accordance with paragraph (1) within seven days of the last day of each successive period of entitlement of four weeks.

(4) In respect of benefit which is the subject of an arrangement for payment under this regulation, the Secretary of State may make a particular payment by credit transfer otherwise than is provided by paragraph (3) if it appears to him appropriate to do so for the purpose of—

- (a) paying any arrears of benefit, or
- (b) making a payment in respect of a terminal period of an award, or of the period covered by the arrangement, where that terminal period is one of less than four weeks, or

for any similar purpose.

(5) The arrangement for benefit to be payable in accordance with this regulation may be terminated—

- (a) by the person entitled to benefit or a person acting on his behalf by notice in writing delivered or sent to an office of the Department, or
- (b) by the Secretary of State if the arrangement seems to him to be no longer appropriate to the circumstances of the particular case.

(6) In relation to payments of benefit which in pursuance of this regulation have been credited to a bank or other account under an arrangement made with the agreement of the person entitled to benefit, if in respect of that arrangement he made a statement in accordance with paragraph (2)(b) that he had read and understood the conditions applicable to payment of benefit in accordance with this regulation, section 119 of the Social Security Act, as applied to child benefit by section 8(1) of the Act, shall have effect as if there were omitted from the said section 119 (repayment of overpaid benefit not required where due care and diligence is shown)—

- (a) subsection (2), and
- (b) the words in subsection (2A) from “unless it is shown” to the end of that subsection.

(7) Where the Secretary of State certifies that it appears to him—

- (a) that an overpayment or any specified part thereof is not materially due to the arrangement to receive benefit provided for in this regulation; or
- (b) that in the particular circumstances of the case it would be inappropriate to apply the provisions of paragraph (6) to an overpayment or any specified part thereof,

the question whether repayment of the overpayment or, as the case may be, the specified part of the overpayment is required shall be determined in accordance with the said section 119 of the Social Security Act without the application of paragraph (6) of this regulation.

Election to receive payment weekly

8.—(1) A person to whom benefit is payable for an uninterrupted period beginning before and ending after 15th March 1982 may make an election, in accordance with paragraph (3), that benefit be payable weekly after that date, if either

- (a) he makes the election before the end of the 26th week from the day on which benefit was payable for the first four weeks in respect of which the Secretary of State made arrangements for four-weekly payment to the person entitled in accordance with regulation 6(1)(b) or regulation 7; or

(b) he was absent from Great Britain on the 15th March 1982 for one of the reasons specified in paragraph (4) and he makes the election before the end of the 26th week of the period beginning with the first week in respect of which benefit became payable to him in Great Britain on his return.

(2) Subject to paragraph (5), a person entitled to benefit may make an election, in accordance with paragraph (3), that benefit be paid weekly if he satisfies either of the following conditions:

(a) he satisfies the conditions specified in regulation 2(2)(a), (b) and (c) of the Child Benefit and Social Security (Fixing and Adjustment of Rates) Regulations 1976 (a) (conditions for increase of child benefit for person living alone), or

(b) he, or his spouse residing with him or the person with whom he is living as husband and wife, is receiving—

(i) a supplementary pension or allowance under the Supplementary Benefits Act 1976 (b), or

(ii) a supplement under the Family Income Supplements Act 1970 (c).

(3) An election for benefit to be payable weekly under paragraphs (1) or (2) shall be effected by giving notice in writing to the Secretary of State delivered or sent to an office of the Department and shall be made when it is received.

(4) An election may not be made under paragraph (1)(b) unless the person's absence abroad on the 15th March 1982 was by reason of his being—

(a) a serving member of the forces, as defined by regulation 1(2) of the Social Security (Contributions) Regulations 1979 (d), or

(b) the spouse of such a member, or

(c) a person living with such a member as husband and wife.

(5) Every person making an election for benefit to be paid weekly under paragraph (2) shall furnish such certificates, documents and such other information of facts as the Secretary of State may, in his discretion, require, affecting his right to receive payment of benefit weekly and in particular shall notify the Secretary of State in writing of any change of circumstances which he might reasonably be expected to know might affect the right to receive payment of benefit weekly, as soon as reasonably practicable after the occurrence thereof.

(6) Where a person makes an election, in accordance with this regulation, for benefit to be paid weekly, it shall continue to be so payable—

(a) in the case of an election under paragraph (1), so long as that person remains continually entitled to benefit, or

(b) in the case of an election under paragraph (2), so long as that person remains continually entitled to benefit and the conditions specified in that paragraph continue to be satisfied.

(7) A person who has made an election that benefit be payable weekly may cancel it at any time by a notice in writing delivered or sent to an office of the Department; and effect shall be given to such a notice as soon as is convenient.

(a) S.I. 1976/1267; relevant amending instrument is S.I. 1980/110.

(b) 1976 c.71.

(c) 1970 c.55.

(d) S.I. 1979/591, to which there are amendments not relevant to these regulations.

Information concerning elections

9. The Secretary of State shall take steps to notify—

- (a) persons to whom regulation 8(1) applies of their rights under that regulation; and
- (b) persons to whom benefit is payable of the effect of regulation 8(2).

Further information and notification of change of circumstances

10. Every person claiming benefit, or to whom benefit has been awarded, or to whom benefit is payable, shall furnish in such manner and at such times as the Secretary of State may determine such certificates and other documents and such information of facts affecting the person's right to benefit or, as the case may be, to its receipt, as the Secretary of State may, in his discretion, require (either as a condition on which any sum or sums shall be payable or otherwise) and in particular shall notify the Secretary of State in writing of any change of circumstances which he might reasonably be expected to know might affect the right to benefit, or to its receipt, as soon as reasonably practicable after the occurrence thereof.

Extinguishment of right to payment of sums on account of benefit

11.—(1) Subject to paragraph (2), the right to payment of any sum on account of benefit shall 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 an approved place for collection by him (whether or not received or collected, as the case may be) and 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) of this paragraph 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 and notwithstanding that that sum is greater or less than the sum to which the payee has the right to payment—
 - (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 in any case more than one such notice is given or sent, on the date determined by reference to the first such notice;
- (c) in relation to any such sum to which neither sub-paragraph (a) nor sub-paragraph (b) of this paragraph applies, on such date as the Secretary of State, in his discretion, determines.

(2) Where a question arises whether the right to payment of any sum on account of benefit has been extinguished by the operation of this regulation and the determining authority is satisfied that—

- (a) after the expiration of the said period of 12 months the Secretary of State has received written notice requesting payment of that sum; and
- (b) throughout a period commencing within the said period of 12 months and continuing up to the date on which the said notice was given there was good cause for not giving that notice,

the said period of 12 months shall be extended to the date on which the determining authority decides that question and for the purposes of the operation of this regulation thereafter the right to payment of that sum shall, notwithstanding the provisions of paragraph (1), be treated as having arisen on that date.

(3) In this regulation—

“payee” means a person to whom sums on account of benefit are payable; and

“approved place” means a place approved by the Secretary of State for the purpose of making payment of sums on account of benefit.

PART IV

MISCELLANEOUS PROVISIONS

Modification of section 6(3) of the Act

12. A person shall not be disentitled to benefit in respect of a child for any week by virtue of the provisions of section 6(3) of the Act (except where regulations otherwise provide, no person to be entitled to benefit for any week on a claim made by him after that week if benefit in respect of the same child has already been paid for that week to another person, whether or not that other person was entitled to it) if in respect of that week—

- (a) the determining authority has decided that the benefit that has already been paid in respect of that child is required to be repaid and, where that determining authority is one from whose decision an appeal lies, the time for appealing has expired and no appeal has been made; or
- (b) the benefit already paid to the other person has been voluntarily repaid to or recovered by the Department in a case where the determining authority has decided that that benefit while not properly payable is not required to be repaid.

Persons unable to act

13.—(1) In the case of any person to whom benefit is payable or who is alleged to be entitled to benefit, or by whom or on whose behalf a claim has been made, if he is for the time being unable to act and either—

- (a) no receiver has been appointed by the Court of Protection with power to claim or as the case may be to receive benefit on his behalf; or
- (b) in Scotland, his estate is not being administered by any curator or other guardian acting or appointed in terms of law,

the Secretary of State may, upon written application made to him by a person over the age of 18, appoint that person to exercise, on behalf of the person who is unable to act, any right to which the latter may be entitled under the Act and to receive and deal on his behalf with any sums payable to him.

(2) Where the Secretary of State has made an appointment under paragraph (1)—

- (a) he may at any time in his discretion revoke any such appointment;
- (b) the person appointed may resign his office after having given one month's notice in writing to the Secretary of State of his intention to do so;
- (c) any such appointment shall terminate when the Secretary of State is notified that a receiver or other person to whom paragraph (1)(a) or (b) applies has been appointed.

(3) Anything required by these regulations to be done by or to any such person as aforesaid who is for the time being unable to act may be done by or to the receiver, curator or other guardian, if any, or by or to the person appointed under this regulation to act on his behalf, and the receipt of any person appointed under this regulation shall be a good discharge to the Secretary of State for any sum paid.

Payment to a person under age 18

14. Where a person who is awarded benefit is under the age of 18, his signature on any instrument of payment shall be a sufficient discharge to the Secretary of State for any sum paid under such instrument.

Payments on death

15.—(1) On the death of a person who has made a claim or who is alleged to have been entitled to benefit, the Secretary of State may appoint such person as he may think fit to proceed with or to make the claim; and the provisions of these regulations shall apply, subject to the necessary modifications, to any such claim.

(2) Subject to the provisions of paragraph (4), any sum payable by way of benefit which is payable under an award on a claim proceeded with or made under paragraph (1) may be paid or distributed by the Secretary of State to or amongst persons over the age of 16 claiming as personal representatives, legatees, next of kin, or creditors of the deceased (or, where the deceased was illegitimate, to or amongst other persons over the age of 16), and the provisions of regulation 11 shall apply to any such payment or distribution; and—

- (a) the receipt of any such person shall be a good discharge to the Secretary of State for any sum so paid; and
- (b) where the Secretary of State is satisfied that any such sum or part thereof is needed for the benefit of any person under the age of 16, he may obtain a good discharge therefor by paying the sum or part thereof to a person over that age (who need not be a person specified in this paragraph) who satisfies the Secretary of State that he will apply the sum so paid for the benefit of the person under the age of 16.

(3) Subject as aforesaid, any sum payable by way of benefit to the deceased, payment of which he had not obtained at the date of his death, may, unless the right thereto was already extinguished at that date, be paid or distributed to or amongst such persons as are mentioned in paragraph (2), and the provisions of regulation 11 shall apply to any such payment or distribution; so however that, for the purpose of regulation 11, the period of 12 months shall be calculated from the date on which the right to payment of any sum is treated as having arisen in relation to any such person and not from the date on which that right is treated as having arisen in relation to the deceased.

(4) Paragraphs (2) and (3) shall not apply in any case unless written application for the payment of any such sum is made to the Secretary of State within 12 months from the date of the deceased's death or within such longer period as the Secretary of State may allow in any particular case.

(5) The Secretary of State may dispense with strict proof of the title of any person claiming in accordance with the provisions of this regulation.

(6) In paragraph (2) "next of kin" means—

- (a) in England and Wales, the persons who would take beneficially on an intestacy; and
- (b) in Scotland, the persons entitled to the moveable estate of the deceased on intestacy.

Payment to a third party and to a spouse as alternative payee

16.—(1) In any case where—

- (a) it appears to the Secretary of State to be necessary for protecting the interests of a person entitled to benefit, or of a child in respect of whom benefit is payable, that arrangements should be made whereby that benefit should be paid to another person on behalf of the person entitled to it; or
- (b) a person entitled to benefit in respect of a child requests the Secretary of State to make that benefit payable to another person on his behalf; or
- (c) such a person as is mentioned in regulation 6 of the Child Benefit (Residence and Persons Abroad) Regulations 1976 **(a)** is in fact absent from Great Britain;

the Secretary of State may, in his discretion, make arrangements whereby the benefit payable to the person entitled to it may be paid to another person on his behalf.

(2) Without prejudice to paragraph (1), where one of two spouses residing together is entitled to benefit the Secretary of State may make arrangements whereby that benefit, as well as being payable to the spouse entitled to it, may, in the alternative, be paid to the other spouse on behalf of the spouse entitled to it.

Breach of regulations

17. Any person who contravenes a requirement of regulation 6(5) or 10 shall be guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding £200.

Revocations

18. The revocations specified in column (1) of Schedule 2 to these regulations are hereby revoked to the extent mentioned in column (3) of that Schedule.

(a) S.I. 1976/963, to which there are amendments not relevant to these regulations.

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

Tony Newton,
Minister of State,
Department of Health and Social Security.

14th December 1984.

SCHEDULE 1

Regulation 5

BENEFITS UNDER THE SOCIAL SECURITY ACT CLAIMS FOR WHICH MAY BE INTER-
CHANGED WITH A CLAIM TO CHILD BENEFIT

Child's special allowance

Guardian's allowance

Maternity benefit claimed after confinement

Industrial death benefit by virtue of section 70

Increase for child dependant by virtue of sections 41, 49, 64 and 76, or regulations made under section 39(4).

SCHEDULE 2

Regulation 18

REVOCATIONS

Regulations revoked (1)	Reference (2)	Extent of revocation (3)
The Child Benefit (Claims and Payments) Regulations 1976	S.I.1976/964	The whole of the regulations.
The Child Benefit (Miscellaneous Minor Amendments) Regulations 1976	S.I. 1976/1758	Regulation 2.
The Child Benefit (Miscellaneous Amendments) Regulations 1978	S.I. 1978/540	Regulation 3.
The Child Benefit (Claims and Payments) Amendment Regulations 1981	S.I. 1981/1772	The whole of the regulations.
The Child Benefit (Claims and Payments) Amendment Regulations 1982	S.I. 1982/1242	Regulations 2 and 4.
The Social Security Adjudication (Consequential Amendments) Regulations 1984	S.I. 1984/458	Regulation 9.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations are made for the purpose only of consolidating the Child Benefit (Claims and Payments) Regulations 1976 with subsequent amending regulations, all of which they revoke. They are accordingly not required to be referred to the Social Security Advisory Committee: Social Security Act 1980 (c.30) section 10(2) and paragraph 20 of Schedule 3.

The regulations are in the same general form as those which they replace, the main substance being in Parts II and III. These deal, respectively, with the making of claims to child benefit and with the payment of benefit. Part IV of the regulations contains miscellaneous provisions. Part V of the 1976 Regulations, which set out transitional arrangements, is no longer needed.

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