
STATUTORY INSTRUMENTS

2006 No. 223

The Child Benefit (General) Regulations 2006

PART 6

Residence

Circumstances in which a child or qualifying young person treated as being in Great Britain

21.—(1) For the purposes of section 146(1) of SSCBA, a child or qualifying young person who is temporarily absent from Great Britain shall be treated as being in Great Britain during—

- (a) the first 12 weeks of any period of absence;
- (b) any period during which that person is absent by reason only of—
 - (i) his receiving full-time education by attendance at a [^{F1}school or college] in an EEA State or in Switzerland; or
 - (ii) his being engaged in an educational exchange or visit made with the written approval of the [^{F1}school or college] which he normally attends;
- (c) any period as is determined by the Commissioners during which the child or qualifying young person is absent for the specific purpose of being treated for an illness or physical or mental disability which commenced before his absence began; or
- (d) any period when he is in Northern Ireland.

(2) For the purposes of section 146(1) of SSCBA, where a child is born while his mother is absent from Great Britain in accordance with regulation 24, he shall be treated as being in Great Britain during such period of absence after his birth as is within 12 weeks of the date on which his mother became absent from Great Britain.

Textual Amendments

- F1** Words in [reg. 21\(1\)\(b\)](#) substituted (16.8.2007) by [The Child Benefit \(General\) \(Amendment\) Regulations 2007 \(S.I. 2007/2150\)](#), regs. 1, 7

Application of regulation 24 where the person is in Northern Ireland

22. If a person who is in Northern Ireland is treated as being in Great Britain in accordance with regulation 24, he is treated as not being in Northern Ireland for the purposes of section 142 ^{M1} of SSCB(NI)A.

Status: Point in time view as at 28/11/2014.

Changes to legislation: There are currently no known outstanding effects for the The Child Benefit (General) Regulations 2006, PART 6. (See end of Document for details)

Marginal Citations

M1 Section 142 of the Social Security Contributions and Benefits (Northern Ireland) Act (c.4) was substituted by section 56 of the [Tax Credits Act 2002 \(c. 21\)](#) and is further substituted, with effect from 10th April 2006, by section 2(2) of the [Child Benefit Act 2005 \(c. 6\)](#).

Circumstances in which person treated as not being in Great Britain

23.—(1) A person shall be treated as not being in Great Britain for the purposes of section 146(2)^{M2} of SSCBA if he is not ordinarily resident in the United Kingdom.

(2) [^{F2}Paragraphs (1) and (5) do] not apply to a Crown servant posted overseas or his partner.

(3) A person who is in Great Britain as a result of his deportation, expulsion or other removal by compulsion of law from another country to Great Britain shall be treated as being ordinarily resident in the United Kingdom [^{F3}and paragraph (5) shall not apply].

(4) A person shall be treated as not being in Great Britain for the purposes of section 146(2) of SSCBA where he [^{F4}makes a claim for child benefit on or after 1st May 2004][^{F5} and

- (a) does not have a right to reside in the United Kingdom; or
- (b) has a right to reside in the United Kingdom by virtue of—
 - (i) regulation 15A(1) of the Immigration (European Economic Area) Regulations 2006, but only in a case where the right exists under that regulation because the person satisfies the criteria in regulation 15A(4A) of those Regulations; or
 - (ii) Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen).]

[^{F6}(5) Subject to paragraph (6), a person is to be treated as being in Great Britain for the purposes of section 146(2) of SSCBA only if that person has been living in the United Kingdom for 3 months ending on the first day of the week referred to in that section.

(6) Paragraph (5) does not apply where the person—

- (a) most recently entered the United Kingdom before 1st July 2014;
- (b) is a worker or a self-employed person in the United Kingdom for the purposes of Council [Directive 2004/38/EC](#) (rights of citizens of the European Union and their family members to move and reside freely within the territory of the Member States);
- (c) retains the status of a worker or self-employed person in the United Kingdom pursuant to Article 7(3) of Council [Directive 2004/38/EC](#);
- (d) is treated as a worker in the United Kingdom pursuant to regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an “accession State national subject to worker authorisation”);
- (e) is a family member of a person referred to in sub-paragraphs (b), (c), (d) or (i);
- (f) is a person to whom regulation 24 applies (persons temporarily absent from Great Britain) and who returns to Great Britain within 52 weeks starting from the first day of the temporary absence;
- (g) returns to the United Kingdom after a period abroad of less than 52 weeks where immediately before departing from the United Kingdom that person had been ordinarily resident in the United Kingdom for a continuous period of 3 months;

- (h) returns to Great Britain otherwise than as a worker or self-employed person after a period abroad and where, otherwise than for a period of up to 3 months ending on the day of returning, that person has paid either Class 1 or Class 2 contributions by virtue of regulation 114, 118, 146 or 147 of the Social Security (Contributions) Regulations 2001 or pursuant to an Order in Council having effect under section 179 of the Social Security Administration Act 1992;
- (i) is not a national of an EEA State and would be a worker or self-employed person in the United Kingdom for the purposes of Council [Directive 2004/38/EC](#) if that person were a national of an EEA State;
- (j) is a refugee as defined in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
- (k) has been granted leave, or is deemed to have been granted leave, outside the rules made under section 3(2) of the Immigration Act 1971 where the leave is —
- (i) granted by the Secretary of State with recourse to public funds, or
 - (ii) deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005;
- (l) has been granted leave to remain in the United Kingdom by the Secretary of State pending an application for indefinite leave to remain as a victim of domestic violence;
- (m) has been granted humanitarian protection by the Secretary of State under rule 339C of Part 11 of the rules made under section 3(2) of the Immigration Act 1971.
- (7) In this regulation, a “family member” means a person who is defined as a family member of another person in Article 2 of Council [Directive 2004/38/EC](#).]

Textual Amendments

- F2** Words in [reg. 23\(2\)](#) substituted (1.7.2014) by [The Child Benefit \(General\) and the Tax Credits \(Residence\) \(Amendment\) Regulations 2014 \(S.I. 2014/1511\)](#), regs. 1, **3(2)**
- F3** Words in [reg. 23\(3\)](#) inserted (1.7.2014) by [The Child Benefit \(General\) and the Tax Credits \(Residence\) \(Amendment\) Regulations 2014 \(S.I. 2014/1511\)](#), regs. 1, **3(3)**
- F4** Words in [reg. 23\(4\)](#) inserted (16.8.2007) by [The Child Benefit \(General\) \(Amendment\) Regulations 2007 \(S.I. 2007/2150\)](#), regs. 1, **8**
- F5** Words in [reg. 23\(4\)](#) substituted (8.11.2012) by [The Child Benefit and Child Tax Credit \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/2612\)](#), regs. 1, **3**
- F6** [Reg. 23\(5\)-\(7\)](#) inserted (1.7.2014) by [The Child Benefit \(General\) and the Tax Credits \(Residence\) \(Amendment\) Regulations 2014 \(S.I. 2014/1511\)](#), regs. 1, **3(4)**

Marginal Citations

- M2** Section 146 of the [Social Security Contributions and Benefits Act 1992 \(c. 4\)](#) was substituted by section 56 of the [Tax Credits Act 2002 \(c. 21\)](#).

Persons temporarily absent from Great Britain

24.—(1) A person who is ordinarily resident in the United Kingdom and is temporarily absent from Great Britain shall be treated as being in Great Britain during the first—

- (a) 8 weeks of any period of absence; or
- (b) 12 weeks of any period of absence where that period of absence, or any extension to that period of absence, is in connection with—

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- (i) the treatment of his illness or physical or mental disability;
- (ii) the treatment of his partner's illness or physical or mental disability;
- (iii) the death of a person who, immediately prior to the date of death, was his partner;
- (iv) the death, or the treatment of the illness or physical or mental disability, of a child or qualifying young person for whom either he or his partner is, or both of them are, responsible; or
- (v) the death, or the treatment of the illness or physical or mental disability, of his or his partner's relative.

Here “relative” means brother, sister, forebear or lineal descendant.

(2) A person is temporarily absent from Great Britain if at the beginning of the period of absence his absence is unlikely to exceed 52 weeks.

Circumstances in which a child or qualifying young person treated as being in Northern Ireland

25.—(1) For the purposes of section 142(1) of SSCB(NI)A a child or qualifying young person who is temporarily absent from Northern Ireland shall be treated as being in Northern Ireland during—

- (a) the first 12 weeks of any period of absence;
- (b) any period during which the child or qualifying young person is absent by reason only of—
 - (i) his receiving full-time education by attendance at a [^{F7}school or college] in an EEA State or in Switzerland; or
 - (ii) his being engaged in an educational exchange or visit made with the written approval of the [^{F7}school or college] which he normally attends;
- (c) any period as is determined by the Commissioners during which the child or qualifying young person is absent for the specific purpose of being treated for an illness or physical or mental disability which commenced before his absence began; or
- (d) any period when he is in Great Britain.

(2) For the purposes of section 142(1) of SSCB(NI)A, where a child is born while his mother is absent from Northern Ireland in accordance with regulation 28, he shall be treated as being in Northern Ireland during such period of absence after his birth as is within 12 weeks of the date on which his mother became absent from Northern Ireland.

Textual Amendments

- F7** Words in [reg. 25\(1\)\(b\)](#) substituted (16.8.2007) by [The Child Benefit \(General\) \(Amendment\) Regulations 2007 \(S.I. 2007/2150\)](#), regs. 1, 9

Application of regulation 28 where person in Great Britain

26. Where a person who is in Great Britain is treated as being in Northern Ireland in accordance with regulation 28, he is treated as not being in Great Britain for the purposes of section 146 of SSCBA.

Circumstances in which person treated as not being in Northern Ireland

27.—(1) A person shall be treated as not being in Northern Ireland for the purposes of section 142(2) of SSCB(NI)A if he is not ordinarily resident in the United Kingdom.

(2) A person who is in Northern Ireland as a result of his deportation, expulsion or other removal by compulsion of law from another country to Northern Ireland shall be treated as being ordinarily resident in the United Kingdom [^{F8}and paragraph (4) shall not apply].

(3) A person shall be treated as not being in Northern Ireland for the purposes of section 142(2) of SSCB(NI)A where he [^{F9}makes a claim for child benefit on or after 1st May 2004][^{F10}and

- (a) does not have a right to reside in the United Kingdom; or
- (b) has a right to reside in the United Kingdom by virtue of—
 - (i) regulation 15A(1) of the Immigration (European Economic Area) Regulations 2006, but only in a case where the right exists under that regulation because the person satisfies the criteria in regulation 15A(4A) of those Regulations; or
 - (ii) Article 20 of the Treaty on the Functioning of the European Union (in a case where the right to reside arises because a British citizen would otherwise be deprived of the genuine enjoyment of the substance of their rights as a European Union citizen).]

[^{F11}(4) Subject to paragraph (5), a person is to be treated as being in Northern Ireland for the purposes of section 142(2) of SSCB(NI)A only if that person has been living in the United Kingdom for 3 months ending on the first day of the week referred to in that section.

- (5) Paragraph (4) does not apply where the person—
- (a) most recently entered the United Kingdom before 1st July 2014;
 - (b) is a worker or a self-employed person in the United Kingdom for the purposes of Council [Directive 2004/38/EC](#);
 - (c) retains the status of a worker or self-employed person in the United Kingdom pursuant to Article 7(3) of Council [Directive 2004/38/EC](#);
 - (d) is treated as a worker in the United Kingdom pursuant to regulation 5 of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 (right of residence of a Croatian who is an “accession State national subject to worker authorisation”);
 - (e) is a family member of a person referred to in sub-paragraphs (b), (c), (d) or (i);
 - (f) is a person to whom regulation 28 applies (persons temporarily absent from Northern Ireland) and who returns to Northern Ireland within 52 weeks starting from the first day of the temporary absence;
 - (g) returns to the United Kingdom after a period abroad of less than 52 weeks where immediately before departing from the United Kingdom that person had been ordinarily resident in the United Kingdom for a continuous period of 3 months;
 - (h) returns to Northern Ireland otherwise than as a worker or self-employed person after a period abroad and where, otherwise than for a period of up to 3 months ending on the day of returning, that person has paid either Class 1 or Class 2 contributions by virtue of regulation 114, 118, 146 or 147 of the Social Security (Contributions) Regulations 2001 or pursuant to an Order in Council having effect under section 179 of the Social Security Administration Act 1992;
 - (i) is not a national of an EEA State and would be a worker or self-employed person in the United Kingdom for the purposes of Council [Directive 2004/38/EC](#) if that person were a national of an EEA State;

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- (j) is a refugee as defined in Article 1 of the Convention relating to the Status of Refugees done at Geneva on 28th July 1951, as extended by Article 1(2) of the Protocol relating to the Status of Refugees done at New York on 31st January 1967;
 - (k) has been granted leave, or is deemed to have been granted leave, outside the rules made under section 3(2) of the Immigration Act 1971 where that leave is—
 - (i) granted by the Secretary of State with recourse to public funds, or
 - (ii) deemed to have been granted by virtue of regulation 3 of the Displaced Persons (Temporary Protection) Regulations 2005;
 - (l) has been granted leave to remain in the United Kingdom by the Secretary of State pending an application for indefinite leave to remain as a victim of domestic violence;
 - (m) has been granted humanitarian protection by the Secretary of State under Rule 339C of Part 11 of the rules made under section 3(2) of the Immigration Act 1971.
- (6) In this regulation, a “family member” means a person who is defined as a family member of another person in Article 2 of Council [Directive 2004/38/EC](#).]

Textual Amendments

- F8** Words in [reg. 27\(2\)](#) inserted (1.7.2014) by [The Child Benefit \(General\) and the Tax Credits \(Residence\) \(Amendment\) Regulations 2014 \(S.I. 2014/1511\)](#), regs. 1, **4(2)**
- F9** Words in [reg. 27\(3\)](#) inserted (16.8.2007) by [The Child Benefit \(General\) \(Amendment\) Regulations 2007 \(S.I. 2007/2150\)](#), regs. 1, **10**
- F10** Words in [reg. 27\(3\)](#) substituted (8.11.2012) by [The Child Benefit and Child Tax Credit \(Miscellaneous Amendments\) Regulations 2012 \(S.I. 2012/2612\)](#), regs. 1, **4**
- F11** [Reg. 27\(4\)-\(6\)](#) inserted (1.7.2014) by [The Child Benefit \(General\) and the Tax Credits \(Residence\) \(Amendment\) Regulations 2014 \(S.I. 2014/1511\)](#), regs. 1, **4(3)**

Persons temporarily absent from Northern Ireland

28.—(1) A person who is ordinarily resident in the United Kingdom and is temporarily absent from Northern Ireland shall be treated as being in Northern Ireland during the first—

- (a) 8 weeks of any period of absence; or
- (b) 12 weeks of any period of absence where that period of absence, or any extension to that period of absence, is in connection with—
 - (i) the treatment of his illness or physical or mental disability;
 - (ii) the treatment of his partner's illness or physical or mental disability;
 - (iii) the death of a person who, immediately prior to the date of death, was his partner;
 - (iv) the death, or the treatment of the illness or physical or mental disability, of a child for whom either he or his partner is, or both of them are, responsible; or
 - (v) the death, or the treatment of the illness or physical or mental disability, of his or his partner's relative.

Here “relative” has the same meaning as in regulation 24.

(2) A person is temporarily absent from Northern Ireland if, at the beginning of the period of absence, his absence is unlikely to exceed 52 weeks.

Overlap of entitlement to child benefit under both the legislation of Northern Ireland and Great Britain

29.—(1) Where by virtue of these Regulations two or more persons would be entitled to child benefit in respect of the same child or qualifying young person for the same week under both the legislation of Northern Ireland and Great Britain, one of them only shall be so entitled.

(2) Where the child is in Great Britain (except where regulation 25(1)(d) applies) or is treated as being in Great Britain, the question of which of the persons is entitled shall be determined in accordance with the legislation applying to Great Britain.

(3) Where the child is in Northern Ireland (except where regulation 21(1)(d) applies) or is treated as being in Northern Ireland, the question of which of the persons is entitled shall be determined in accordance with the legislation applying to Northern Ireland.

Crown servants posted overseas

30.—(1) For the purposes of section [F¹²146(2)] of the Social Security and Contributions and Benefits Act, a Crown servant posted overseas shall be treated as being in Great Britain.

(2) A Crown servant posted overseas is a person performing overseas (but not in Northern Ireland) the duties of any office or employment under the Crown in right of the United Kingdom—

- (a) who is, or was, immediately prior to his posting or his first of consecutive postings, ordinarily resident in the United Kingdom; or
- (b) who, immediately prior to his posting or his first of consecutive postings, was in the United Kingdom in connection with that posting.

Textual Amendments

F12 Word in [reg. 30\(1\)](#) substituted (16.8.2007) by [The Child Benefit \(General\) \(Amendment\) Regulations 2007 \(S.I. 2007/2150\)](#), [regs. 1, 11\(1\)](#)

Partners of Crown servants posted overseas

31.—(1) For the purposes of section [F¹³146(2)] of the Social Security and Contributions and Benefits Act the partner of a Crown servant posted overseas who is accompanying the Crown servant posted overseas shall be treated as being in Great Britain when the partner is either—

- (a) in the country where the Crown servant is posted, or
- (b) absent from that country in accordance with regulation 24 as modified by paragraphs (3) and (4).

(2) Regulations 22 and 24 apply to the partner of a Crown servant posted overseas with the modifications set out in paragraphs (3) and (4).

(3) References to “Great Britain” in the phrase “temporarily absent from Great Britain” in paragraphs (1) and (2) of regulation 24 shall be construed as references to the country where the Crown servant is posted and regulation 21(2) shall apply, where appropriate, accordingly.

(4) In regulation 24 omit the words “ ordinarily resident in the United Kingdom and is ”.

Textual Amendments

F13 Word in [reg. 31\(1\)](#) substituted (16.8.2007) by [The Child Benefit \(General\) \(Amendment\) Regulations 2007 \(S.I. 2007/2150\)](#), [regs. 1, 11\(2\)](#)

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Child or qualifying young persons normally living with Crown servants posted overseas

32.—(1) For the purposes of section [F14 146(1)] of the Social Security and Contributions and Benefits Act a child or qualifying young person who normally lives with a Crown servant posted overseas shall be treated as being in Great Britain when he is either—

- (a) in the country where the Crown servant is posted, or
- (b) absent from that country in accordance with regulation 21 as modified by paragraph (2).

(2) The reference to “Great Britain” in paragraph (1) of that regulation shall be construed as a reference to the country where the Crown servant is posted.

Textual Amendments

F14 Word in [reg. 32\(1\)](#) substituted (16.8.2007) by [The Child Benefit \(General\) \(Amendment\) Regulations 2007 \(S.I. 2007/2150\)](#), regs. 1, **11(3)**

Transitional provisions for Part 6

33.—(1) In relation to a period of temporary absence which commenced before 7th April 2003, and continues after the coming into force of these Regulations, regulations 24 and 28 shall have effect subject to the modifications in paragraphs (2) and (3) respectively.

(2) For regulation 24(2) substitute—

“(2) A person is temporarily absent from Great Britain if at the beginning of the period of absence his absence was intended to be temporary and has throughout continued to be so intended.”.

(3) For regulation 28(2) substitute—

“(2) A person is temporarily absent from Northern Ireland if at the beginning of the period of absence his absence was intended to be temporary and has throughout continued to be so intended.”.

Status:

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Changes to legislation:

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