1967 No. 1170

SOCIAL SECURITY

The Family Allowances (Determination of Claims and Questions) Regulations 1967

Made - - -	*25th July* 1967
Laid before Parliament	*8th August* 1967
Coming into Operation	*9th August* 1967

The Minister of Social Security in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed, in exercise of powers conferred by sections 73, 75(2) and 81(3) of the National Insurance Act 1965(a), and sections 5(2) and 8(1) and (2) of the Family Allowances Act 1965(b) and of all other powers enabling her in that behalf, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations, which may be cited as the Family Allowances (Determination of Claims and Questions) Regulations 1967, shall come into operation on 9th August 1967.

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

" the Family Allowances Act " means the Family Allowances Act 1965;

" the National Insurance Act " means the National Insurance Act 1965;

" the Minister " means the Minister of Social Security;

" the Commissioner ", " local tribunal " and " insurance officer " have the same meaning as in the National Insurance (Determination of Claims and Questions) Regulations 1967(c);

" allowance " means an allowance under the Family Allowances Act;

" award " means an award of an allowance;

and other expressions have the same meaning as in the Family Allowances Act.

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment order or regulations.

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

Modification of provisions of the National Insurance (Determination of Claims and Questions) Regulations 1967 *in their application to family allowances*

2. Where by virtue of section 5(2) of the Family Allowances Act (determination of questions arising under that Act) any of the provisions of the National

(a) 1965 c. 51.
(b) 1965 c. 53.
(c) S.I. 1967/1168 (1967 II, p. 3423).
(d) 1889 c. 63.

Insurance (Determination of Claims and Questions) Regulations 1967 apply in relation to the determination for the purposes of the Family Allowances Act of any question as to the right to an allowance in respect of any person for any family, those provisions shall apply subject to the provisions of these regulations and in particular to the following modifications, that is to say, that references in the National Insurance (Determination of Claims and Questions) Regulations 1967 to a question as to the right to benefit shall be treated as including references to a question as to the right to an allowance and references to a claim or to a claimant shall be construed accordingly.

Review of decisions of insurance officers

3.—(1) Any decision given by an insurance officer by virtue of section 5(2) of the Family Allowances Act or in accordance with section 76(1) of the National Insurance Act (determination of certain questions as to child or family) may be reviewed at any time by an insurance officer, or, on a reference from an insurance officer, by a local tribunal, on the ground that the decision was erroneous in point of law.

(2) Nothing in the foregoing paragraph shall in relation to such a decision prejudice the operation of subsection (1) of section 72 of the National Insurance Act (review on various grounds of decisions of insurance officer, local tribunal or Commissioner), but the provisions of subsections (2), (3) and (4) of that section (procedure on such review) shall, subject to the necessary modifications, apply to a review under this regulation as they apply to a review under the said subsection (1).

Review of decisions involving payment of allowances

4.—(1) Where on review a decision is revised so as to make sums on account of an allowance payable the decision given on the review shall have effect as if a claim to the allowance had been made on the date of the application for the review and accordingly no sum on account of the allowance shall be payable in respect of any period earlier than six months before the date on which such application was made.

(2) For the purpose of this regulation, where a decision is reviewed at the instance of an insurance officer, the date on which it was first decided by the insurance officer that the decision should be reviewed shall be deemed to be the date of the application for the review.

Adjus ment of sums paid on account of allowances

5.—(1) In any case in which—

(*a*) by virtue of an award sums have been paid on account of an allowance by reason of the inclusion of a child in one family (in this regulation referred to as " the first family "); and

(*b*) by a subsequent decision the child is found to be included in another family (in this regulation referred to as " the second family ") during a period for which the sums were paid, and an award is made for the second family by reason of the inclusion of the child in that family; and

(*c*) either—

(i) during that period the conditions of the Family Allowances Act and regulations for the inclusion of the child in the first family would have been satisfied but for the inclusion of that child in the second family by virtue of the provisions of paragraphs 1, 2 or 3 of the Schedule to that Act; or

(ii) the sums paid for that period were paid to the person to whom

arrears have become payable by reason of the inclusion of the child in the second family or, where that family is the family of a man and his wife living together, were paid to the man on account of an allowance for the family of that man as not having a wife or not living together with his wife;

the subsequent decision shall direct that the sums so paid shall be treated, in accordance with the next following paragraph, as having been properly paid for that period and that any arrears payable for that period or any part thereof by virtue of the award to the second family shall be reduced to the extent to which the sums so paid for that period or any part thereof for which the arrears are payable are directed to be treated as having been properly paid.

(2) For the purposes of ascertaining in any case the sums to be treated under this regulation as having been properly paid to the first family, that family shall be treated as including only any child in whose case during the said period the foregoing paragraph applies or the conditions for inclusion in that family were satisfied.

Repayment of sums paid as on account of allowances

6.—(1) In the case of any sum paid as on account of an allowance for the family of a man and his wife living together which would have been receivable (if properly paid) by either the man or the wife and which under section 8 of the Family Allowances Act (recovery of sums found by a decision on review or appeal to have been wrongly paid)—

(*a*) the wife is not required to repay, the decision on review or appeal shall require repayment from the man if it is shown to the satisfaction of the insurance officer, the local tribunal or the Commissioner, as the case may be, that in relation to the obtaining and receipt of the sum in question he, or any person acting for him, did not throughout use due care and diligence to avoid overpayment;

(*b*) the wife is required to repay, the man shall, subject to the provisions of paragraph (3) of this regulation, be liable to repay it as well as his wife.

(2) Any sum which a person is required under the foregoing paragraphs of this regulation or under section 8 of the Family Allowances Act to repay may, without prejudice to any other remedy, be recovered by means of deductions from any other sum receivable on account of any allowance by that person.

(3) In the case of any sum paid as on account of an allowance for the family of a man and his wife living together, for the purposes of sections 68, 69 and 70 of the National Insurance Act (determination of certain matters by insurance officers, local tribunals or Commissioner) and the National Insurance (Determination of Claims and Questions) Regulations 1967 in their application to the question whether repayment shall be required from the man under the provisions of this regulation or under section 8 of the Family Allowances Act, the man as well as the wife shall have all the rights and powers of a claimant and if he is not accorded those rights and powers, in a case where repayment is required from the wife, he shall not be liable under paragraph (1)(*b*) of this regulation to make the repayment.

Payment of sums on account of allowances where appeal is pending

7.—(1) Subject to the provisions of these regulations and of section 8 of the Family Allowances Act, sums on account of an allowance awarded shall be payable notwithstanding that an appeal against the award is pending and,

subject as aforesaid, shall be treated as having been properly paid and shall not be recoverable under the provisions of the Family Allowances Act or otherwise.

(2) Where an appeal to the Commissioner from an award of a local tribunal is made within twenty-one days of the date on which the award was given, payment of sums on account of the allowance to which the appeal relates shall be suspended until the appeal has been determined.

Revocations and transitional provisions

8.—(1) The regulations specified in column 1 of the Schedule to these regulations are hereby revoked to the extent mentioned in column 3 of that Schedule:

Provided that the provisions of these regulations shall not apply to such a decision or award as is specified in regulation 8 of the Family Allowances (Determination of Claims and Questions) Regulations 1959(a) and the provisions of the regulations specified in the Schedule to these regulations shall continue to apply to such a decision or award to the same extent that they would have applied thereto if these regulations had not been made.

(2) Anything whatsoever done under or by virtue of any regulations revoked by these regulations shall be deemed to have been done under or by virtue of the corresponding provision of these regulations, and anything whatsoever begun under any such regulation may be continued under these regulations as if begun under these regulations.

(3) So much of any document as refers expressly or by implication to any regulation revoked by these regulations shall, if and so far as the context permits, be construed as referring to the corresponding provision of these regulations.

(4) Nothing in paragraphs (2) and (3) of this regulation shall be taken as affecting the general application by regulation 1(4) of these regulations of the rules for the construction of Acts of Parliament contained in section 38 of the Interpretation Act 1889 (effect of repeal) with regard to the effect of revocations.

Margaret Herbison,
Minister of Social Security.

25th July 1967.

Harry Gourlay,
B. K. O'Malley,
Two of the Lords Commissioners of Her Majesty's Treasury.

25th July 1967.

(a) S.I. 1959/1157 (1959 II, p. 1836).

Regulation 8(1) SCHEDULE

Regulations revoked	References	Extent of Revocation
The Family Allowances (References) Regulations 1946.	S.R. & O. 1946/139 (Rev. VII, p. 621: 1946 I, p. 513)	The whole regulations.
The Family Allowances (Determination of Claims and Questions) Regulations 1959.	S.I. 1959/1157 (1959 II, p. 1836)	The whole regulations.
The Family Allowances, National Insurance and Industrial Injuries (Consequential) Regulations 1962.	1962/326 (1962 I, p. 300)	Regulation 3 and Schedule 1.
The Family Allowances (Determination of Claims and Questions) Regulations 1962.	1962/1428 (1962 II, p. 1586)	The whole regulations.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These regulations revoke and consolidate the regulations hitherto in force for the purpose of the Family Allowances Act 1965 relating to the determination of claims and questions under that Act.

They contain only provisions concerning family allowance and related questions such as are referred to in section 108(9)(*d*) of the National Insurance Act 1965, and accordingly, by virtue of that section, no reference of these regulations has been made to the National Insurance Advisory Committee.

The Regulations modify the National Insurance (Determination of Claims and Questions) Regulations 1967 in their application to family allowance questions and certain special provisions, in relation to such questions, concerning review, the set-off and repayment of overpayments, and interim payments pending appeals.