

1961 No. 1378

NATIONAL INSURANCE

The National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Amendment Regulations, 1961

<i>Made</i>	20th July, 1961
<i>Laid before Parliament</i>	27th July, 1961
<i>Coming into Operation</i>	31st July, 1961

The Minister of Pensions and National Insurance, 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 7 (8), 9 (3) and (4) and 13 (2) of the National Insurance Act, 1959(a), and of all other powers enabling him in that behalf, after considering the report of the National Insurance Advisory Committee on the preliminary draft submitted to them, hereby makes the following regulations:—

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Amendment Regulations, 1961, shall be read as one with the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations, 1960(b), (hereinafter referred to as “the principal regulations”), and shall come into operation on the 31st July, 1961.

Amendment of regulation 3 of the principal regulations

2.—(1) Regulation 3 of the principal regulations (which relates to employment not treated as continuing during interruption) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the First Schedule to these regulations.

(2) At the end of the proviso to the said regulation 3 there shall be added the following paragraph:—

“(c) where a person’s period of service in a non-participating employment would fall to be treated, for the purpose of the said provisions of Part II of the Act of 1959, as having come to an end but for the provisions of subsection (4) of section 9 of that Act (which subsection provides that, for the purpose of any liability to make a payment in lieu of contributions, two employments are in certain cases to be treated as a single continuous employment), the employer in the previous employment may give notice under this regulation not later than the end of the assurance period relating to that employment.”

Amendment of regulation 4 of the principal regulations

3.—(1) Regulation 4 of the principal regulations (which relates to notice of end of employment) shall be amended in accordance with the following

provisions of this regulation and shall accordingly have effect as set out in the Second Schedule to these regulations.

(2) At the end of paragraph (i) of the proviso to the said regulation 4 there shall be inserted the words " or if the Minister has so directed under regulation 11A "

Amendment of regulation 7 of the principal regulations

4. Paragraph (2) of regulation 7 of the principal regulations (which paragraph provides for a certificate of assurance required by that regulation to be delivered to any person to be treated as duly delivered if sent by registered post) shall be amended by the insertion after the words " registered post " of the words " or by recorded delivery service ".

Amendment of regulation 11 of the principal regulations

5.—(1) Regulation 11 of the principal regulations (which relates to the certificate to be furnished where two employments are to be treated for the purpose of any liability to make a payment in lieu of contributions as a single continuous employment) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Third Schedule to these regulations.

(2) In paragraph (1) of the said regulation 11 after the words " the same recognised superannuation scheme relates to both " there shall be inserted the words " or where the Minister has given a direction to the contrary under regulation 11A ", and in paragraph (2) of the said regulation 11 for the word " paragraph " where it first occurs there shall be substituted the word " regulations ".

(3) Paragraph (3) of the said regulation 11 shall be omitted and is hereby revoked but without prejudice to anything duly done or suffered, or to any right, privilege, obligation or liability acquired, accrued or incurred, thereunder.

Addition to the principal regulations

6. After regulation 11 of the principal regulations there shall be inserted the following new regulation:—

" Exemption from duty to give notice of end of employment or certificate under regulation 11

11A. Where, apart from this regulation, a certificate is required to be given and delivered under regulation 11, the Minister may, where either—

- (a) the recognised superannuation scheme relating to the new employment is a statutory scheme ; or
- (b) both employments are under the same employer, but the same recognised superannuation scheme does not relate to both ; or
- (c) the same recognised superannuation scheme relates to both employments, but the previous employment and the new employment are under different employers ;

by a direction in writing in such cases as he may direct and subject to such conditions as he may impose exempt the employer in the previous

employment from his duty to give a notice of the end of that employment under regulation 4 or (whether so exempting that employer or not) dispense with or modify the requirements of regulation 11 concerning the giving and delivery of a certificate thereunder."

Dated this twentieth day of July, 1961.

John Boyd-Carpenter,
Minister of Pensions and National Insurance.

Dated this twentieth day of July, 1961.

John Hill,
David Gibson-Watt,
Two of the Lords Commissioners
of Her Majesty's Treasury.

Regulation 2

FIRST SCHEDULE

REGULATION 3 OF THE PRINCIPAL REGULATIONS, AS AMENDED BY THESE REGULATIONS*

Employment not treated as continuing during interruption

3. A person's employer may, after the end of that person's period of service in a non-participating employment and not later than the end of the assurance period, give the Minister notice in writing that he wishes the employment not to be treated, for the purpose of the provisions of Part II of the Act of 1959 relating to the making of a payment in lieu of contributions at the end of such a period of service, as having continued during such number of contribution weeks as may be specified in the notice, being contribution weeks during which it would, apart from this regulation, fall, under paragraph (3) of regulation 2, to be treated for that purpose as having continued, and, if such a notice is given, the employment shall not be so treated as having continued during those weeks:

Provided that—

- (a) no such notice shall include any contribution weeks in a contribution year where the number of contribution weeks in that year during which the employment would so fall to be treated as having continued is three or less;
- (b) where that number of contribution weeks exceeds three, at least three of those weeks shall be excluded from the notice; and
- (c) *where a person's period of service in a non-participating employment would fall to be treated, for the purpose of the said provisions of Part II of the Act of 1959, as having come to an end but for the provisions of subsection (4) of section 9 of that Act (which subsection provides that, for the purpose of any liability to make a payment in lieu of contributions, two employments are in certain cases to be treated as a single continuous employment), the employer in the previous employment may give notice under this regulation not later than the end of the assurance period relating to that employment.*

* The words added by these regulations are shown in italics.

SECOND SCHEDULE

Regulation 3

REGULATION 4 OF THE PRINCIPAL REGULATIONS, AS AMENDED BY THESE REGULATIONS*

Notice of end of employment

4. Where a person's period of service in a non-participating employment—

- (a) falls to be treated, for the purpose of the provisions of Part II of the Act of 1959 relating to the making of a payment in lieu of contributions at the end of such a period, as having come to an end; or
- (b) would fall to be so treated for that purpose but for the provisions of subsection (4) of section 9 of that Act (which subsection provides that, for the purpose of any liability to make a payment in lieu of contributions, two employments are in certain cases to be treated as a single continuous employment);

it shall be the duty of the employer to give the Minister notice in writing to that effect within the assurance period:

Provided that—

- (i) this regulation shall not apply where notice under paragraph (5) of regulation 2 has been given by the person and his employer, or, in a case such as is referred to in paragraph (b) of this regulation, if both employments are under the same employer and the same recognised superannuation scheme relates to both *or if the Minister has so directed under regulation 11A*; and
- (ii) a notice of application for an extension or further extension of the period of thirteen contribution weeks referred to in paragraphs (2) and (3) of regulation 2 shall, if the application is not granted, be deemed to be a notice for the purpose of this regulation.

THIRD SCHEDULE

Regulation 5

REGULATION 11 OF THE PRINCIPAL REGULATIONS, AS AMENDED BY THESE REGULATIONS*

Certificate to be furnished for the purpose of section 9 (4) of the Act of 1959

11.—(1) Where in any case the provisions of paragraphs (a), (b), (c) and (d) of subsection (4) of section 9 of the Act of 1959 are satisfied or, if the provisions of paragraph (c) of the said subsection do not apply by virtue of paragraph (3) of regulation 10 of these regulations, the provisions of paragraphs (a), (b) and (d) of the said subsection (4) are satisfied, the certificate described in the following provisions of this regulation shall, save in a case where both employments are under the same employer and the same recognised superannuation scheme relates to both *or where the Minister has given a direction to the contrary under regulation 11A*, be given and delivered in accordance with those provisions.

(2) Subject to the provisions of the next following *regulation*, the certificate referred to in the foregoing paragraph shall be given by the responsible paying authority of the recognised superannuation scheme relating to the new employment and shall contain the following particulars—

- (a) the period of service in the previous employment (including any earlier employment treated as continuous therewith under subsection (4) of section 9 of the Act of 1959);

* The words added by these regulations are shown in italics.

- (b) the equivalent pension benefits for which the service in the previous employment qualifies the person employed under the recognised superannuation scheme relating to the new employment (or if paragraph (3) of regulation 10 applies, under the recognised superannuation schemes relating to both employments) and the manner in which it so qualifies him, and where the qualification is contingent on the like assumptions in relation to his new employment as are to be made under subsections (2) and (3) of section 8 of the Act of 1959, what those assumptions are; and
- (c) if that scheme is a non-statutory scheme, the manner in which the provisions of paragraph (b) of subsection (4) of section 8 of the Act of 1959 (which contains conditions under which a scheme or arrangement, other than one established by Act of Parliament or of the Parliament of Northern Ireland or other instrument having the force of law, is a recognised superannuation scheme) are satisfied in relation to those benefits.

(4) A certificate as provided in paragraph (1) of this regulation shall be given by the responsible paying authority to the employer in the previous employment not later than the end of the assurance period relating to the previous employment, and that employer shall deliver it to the Minister and a copy thereof to the insured person not later than the end of that period.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations amend the National Insurance (Non-participation—Assurance of Equivalent Pension Benefits) Regulations, 1960, by enabling the Minister in certain cases to dispense with or modify the requirements relating to the certificate to be given and delivered as a condition of treating two non-participating employments as a single continuous employment for the purpose of liability to make a payment in lieu of contributions and to dispense with a notice of end of employment by the first employer. The Regulations also enable notice to be given by an employer that he wishes a non-participating employment in relation to any person not to be treated, for the purpose of making a payment in lieu of contributions, as having continued during interruptions during which it would otherwise be so treated, notwithstanding that the employment is being treated as a single continuous employment with a subsequent employment. Provision is also made for a certificate of assurance to be sent by recorded delivery service as an alternative to registered post.

The report of the National Insurance Advisory Committee on the preliminary draft of these Regulations, dated 18th July, 1961, is contained in the House of Commons Paper No. 266 (Session 1960-61) published by Her Majesty's Stationery Office.