

1966 No. 959

NATIONAL INSURANCE

**The National Insurance (Earnings-related Benefit)
Regulations 1966**

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| <i>Made</i> - - - - | 1st August 1966 |
| <i>Laid before Parliament</i> | 8th August 1966 |
| <i>Coming into Operation</i> | 6th October 1966 |

The Minister of Pensions and National Insurance, in exercise of powers conferred by section 114(5) of the National Insurance Act 1965(a) and sections 2(6) and (8), 4(2) and 14(5) of the National Insurance Act 1966(b) in consequence of the last mentioned Act and in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed, and in exercise of all other powers enabling her in that behalf, hereby makes the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (Earnings-related Benefit) Regulations 1966, and shall come into operation on 6th October 1966.

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

- “the Insurance Act” means the National Insurance Act 1965;
- “the Industrial Injuries Act” means the National Insurance (Industrial Injuries) Act 1965(c);
- “the Act of 1966” means the National Insurance Act 1966;
- “the Contributions Regulations” means the National Insurance (Contributions) Regulations 1948(d), as amended(e);
- “the Overlapping Benefits Regulations” means the National Insurance (Overlapping Benefits) Regulations 1948(f), as amended(g);
- “injury benefit” means injury benefit under the Industrial Injuries Act;
- “reckonable earnings” means reckonable earnings within the meaning of section 2(5)(b) of the Act of 1966;

(a) 1965 c. 51.

(b) 1966 c. 6.

(c) 1965 c. 52.

(d) S.I. 1948/1417 (Rev. XVI, p. 164: 1948 I, p. 2767).

(e) The relevant amending regulations are S.I. 1962/300, 1963/501 (1962 I, p. 289; 1963 I, p. 575).

(f) S.I. 1948/2711 (Rev. XVI, p. 367: 1948 I, p. 2905).

(g) The relevant amending provisions are the National Insurance &c. Act 1964 (1964 c. 96) Schedule 6, para. 9 and S.I. 1951/1232, 1952/422, 526, 1954/189, 1957/1889, 2077, 1959/1290, 1962/12, 1964/297 (1951 I, p. 1457; 1952 II, pp. 2194, 2196; 1954 I, p. 1387; 1957 I, pp. 1603, 1556; 1959 II, p. 1875; 1962 I, p. 10; 1964 I, p. 508).

“Personal Injuries Scheme,” “Service Pensions Instrument,” “1914–1918 War Injuries Scheme” and “Pneumoconiosis and Byssinosis Benefit Scheme” have the same meanings as in the Overlapping Benefits Regulations;

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

(3) References in these regulations to any enactment or regulations shall, except in so far as the context otherwise requires, be construed as references to such enactment or regulations as amended or extended by or under any other enactment, order or regulations.

(4) The rules for the construction of Acts of Parliament contained in the Interpretation Act 1889^(a) shall apply for the purpose of the interpretation of these regulations as they apply for the purpose of the interpretation of an Act of Parliament.

Variation of provisions relating to calculation of earnings-related supplement in cases affected by Overlapping Benefits Regulations

2.—(1) Where, in the case of a person entitled to earnings-related supplement under section 2 of the Act of 1966 in respect of any day, a payment by way of maternity allowance, injury benefit or a supplement on account of unemployability falls to be made to that person in respect of that day, and, by reason only of that payment, a payment by way of unemployment benefit or sickness benefit in respect of that day does not fall to be made or falls to be made at a reduced rate by virtue of the provisions of the Overlapping Benefits Regulations, then, for the purpose of section 2(4)(b) of the Act of 1966 (calculation of rate of earnings-related supplement) and for that purpose only, the weekly rate of the amount payable by way of unemployment benefit or sickness benefit in respect of that day shall be the weekly rate of the benefit which would be payable to that person in respect of that day if the benefit had not been extinguished or reduced under the provisions of those regulations.

(2) For the purposes of this regulation—

(a) “supplement on account of unemployability” and “dependency benefit” mean such a supplement and any dependency benefit, respectively, under the Industrial Injuries Act, any Personal Injuries Scheme, any Service Pensions Instrument or any 1914–1918 War Injuries Scheme, or any Pneumoconiosis and Byssinosis Benefit Scheme;

(b) a claim for unemployment benefit or sickness benefit shall be deemed to include a claim duly made for an increase of benefit under section 40(1) or section 43(1) or (2) of the Insurance Act for any child or adult dependant in respect of whom dependency benefit or an increase of maternity allowance is payable, so however that the amount of any such increase shall, notwithstanding the foregoing provisions of this regulation, be adjusted in accordance with regulation 5 or regulation 6 of the Overlapping Benefits Regulations by reference to any benefit referred to in those regulations other than—

(i) any dependency benefit payable by way of increase of injury benefit or by reason of entitlement to a supplement on account of unemployability;

(ii) any increase of maternity allowance.

Calculation of reckonable earnings and keeping of records

3.—(1) For the purpose only of ascertaining a person's reckonable earnings, there shall be disregarded any payment of remuneration made to that person—

- (a) to the extent that the Inspector of Taxes has, under regulations made under section 157 (pay as you earn) of the Income Tax Act 1952(a), directed that it shall be disregarded by the person's employer in calculating the tax to be deducted or repaid under those regulations; or
- (b) in so far as it is a payment in respect of a period of holiday, where the sum paid is derived directly or indirectly from a fund to which more than one employer contributes and the management and control of which are not vested in those employers, or where the person making the payment is entitled to be reimbursed from such a fund.

(2) Every employer shall make such records in writing of the payments of reckonable earnings which he makes to any person in the income tax year ending 5th April 1967 or in any subsequent income tax year as will enable the total of such payments to be ascertained at the end of that year, and shall preserve such records for a period of not less than two years after the end of the income tax year to which they relate.

(3) Where a person is employed consecutively in any income tax year in two or more employments and, under regulations made under the said section 157, his employer in the second or subsequent employment is informed of the amount of his reckonable earnings in any earlier employment, the records to be made and preserved by that employer under the foregoing paragraph shall include a separate record of that amount.

(4) In this regulation, the expression "employer" has the same meaning as in regulations under the said section 157.

Relevant income tax year

4. For the purpose of section 2(4) (rate of earnings-related supplement) of the Act of 1966 the relevant income tax year, in relation to a day forming part of a period of interruption of employment beginning before 2nd May 1966, shall be the income tax year ended 5th April 1966.

Calculation of earnings-related benefit

5.—(1) Where a person's reckonable earnings for the relevant income tax year are of an amount shown in column 1 of the Schedule to these regulations, then, for the purpose of ascertaining the weekly rate of earnings-related supplement under section 2(4) of the Act of 1966,—

- (a) the amount specified in column 2 of that Schedule opposite to the first-mentioned amount shall be taken as the amount referred to in paragraph (a) of the said section 2(4) (that is to say, the amount equal to one-third of the amount, up to £21, by which the claimant's average weekly earnings for the relevant income tax year exceeded £9); and
- (b) the amount correspondingly specified in column 3 of that Schedule shall be taken, for the purposes of paragraph (b) of the said section 2(4), as 85 per cent of those average weekly earnings.

(2) Where a person's reckonable earnings for the relevant income tax year are of an amount not shown in column 1 of the said Schedule, the provisions

of the foregoing paragraph shall apply as if those earnings were of the next smaller amount, if any, which is so shown.

(3) The foregoing provisions of this regulation (except paragraph (1)(b) thereof) shall apply for the purpose of ascertaining the weekly rate of widow's supplementary allowance under section 4(1) of the Act of 1966 as they apply for the purpose of ascertaining the weekly rate of earnings-related supplement under section 2(4) of that Act, but with the substitution, for the references to the relevant income tax year, section 2(4)(a) and the claimant, of references to the appropriate income tax year, section 4(1) and the husband respectively.

Entitlement to earnings-related supplement of certain widows

6. For the purpose of section 2(6) (treatment for the purposes of the said section 2 of certain widows as entitled to unemployment benefit or sickness benefit for any day if they are entitled to prescribed benefit) of the Act of 1966, in the case of a widow who, in respect of the contribution week which includes the day in question,—

(a) by virtue of paragraph (2) of regulation 6(a) (widows) of the Contributions Regulations, is entitled but not liable to pay a contribution as therein mentioned or, by virtue of paragraph (3) of that regulation, is or would, had she applied in due time for a certificate of exception, have been excepted from liability to pay a contribution as provided in that paragraph, or

(b) would have satisfied the requirements of the foregoing paragraph, had she not been in receipt of injury benefit or absent from Great Britain during that week,

the prescribed benefit shall be that benefit by virtue of which the said paragraph (2) or paragraph (3) applies or would have applied in her case.

Appropriate income tax year

7.—(1) Where, on the day of his death, the husband was, or would but for the operation in relation to that day of one or more of the circumstances specified in the next following paragraph of this regulation have been, entitled to earnings-related supplement, then, for the purpose of widow's supplementary allowance under section 4(1) of the Act of 1966 in respect of him, the appropriate income tax year shall be that income tax year which was the relevant income tax year for the purpose of earnings-related supplement for that day in his case.

(2) The circumstances referred to in the foregoing paragraph are:—

(a) the operation of section 2(4)(b) (limitation of right to earnings-related supplement) of the Act of 1966;

(b) the attainment of pensionable age by the husband not earlier than the commencement of the period of interruption of employment which last began before his death;

(c) the fact that the said period of interruption of employment had lasted less than 13 days;

(d) delay or failure to make a claim.

(3) Where, on the day of his death, the husband was not, or would not have been, entitled as aforesaid to earnings-related supplement, but on another day, being a day not more than seven days before the day of his death and falling

in the earnings-related benefit year in which he died, he was or would have been so entitled, the foregoing provisions of this regulation shall apply with the substitution, for the reference to the day of his death, of a reference to that other day.

Transitional provisions for earnings-related supplement

8.—(1) For the purposes of section 2(2)(c) (earnings-related supplement only payable to a person for a day forming part of a period of interruption of employment and not earlier than the thirteenth day of that period) of the Act of 1966 a day falling before 6th October 1966 shall not count as one of the first twelve days in a period of interruption of employment which continues on or after that date, unless it is a day in respect of which the person is entitled to relevant flat-rate benefit.

(2) For the purposes of section 2(3) (limitation to 156 days in a period of interruption of employment of right to earnings-related supplement) of the Act of 1966, a person who is entitled to relevant flat-rate benefit in respect of any day which—

- (a) falls before 6th October 1966 in a period of interruption of employment which continues on or after that date; and
- (b) is not one of the first twelve days in respect of which he is so entitled in that period;

shall be treated as if he had been entitled to earnings-related supplement in respect of the first-mentioned day.

(3) In this regulation, the expression “relevant flat-rate benefit” means unemployment benefit, sickness benefit, injury benefit or a supplement on account of unemployability under the Industrial Injuries Act, any Personal Injuries Scheme, any Service Pensions Instrument or any 1914–1918 War Injuries Scheme or any Pneumoconiosis and Byssinosis Benefit Scheme.

Margaret Herbison,

Minister of Pensions and
National Insurance.

29th July 1966.

W. Howie,

George Lawson,

Two of the Lords Commissioners of
Her Majesty's Treasury.

1st August 1966.

SCHEDULE

Regulation 5

Tables of annual reckonable earnings with corresponding figures for one-third of the excess up to £21 of average weekly earnings over £9 and 85 per cent of average weekly earnings.

| Annual reckonable earnings (1) | One-third of the excess up to £21 of average weekly earnings over £9 (2) | 85 per cent of average weekly earnings (3) |
|-----------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------|
| £ | £ s. d. | £ s. d. |
| 450 | 1 0 | 7 18 0 |
| 465 | 3 0 | 8 3 0 |
| 480 | 5 0 | 8 8 6 |
| 495 | 7 0 | 8 13 6 |
| 510 | 9 0 | 8 18 6 |
| 525 | 11 0 | 9 3 6 |
| 540 | 13 0 | 9 8 6 |
| 555 | 15 0 | 9 14 0 |
| 570 | 17 0 | 9 19 0 |
| 585 | 19 0 | 10 4 0 |
| 600 | 1 1 0 | 10 9 0 |
| 615 | 1 3 0 | 10 14 0 |
| 630 | 1 5 0 | 10 19 6 |
| 645 | 1 7 0 | 11 4 6 |
| 660 | 1 9 0 | 11 9 6 |
| 675 | 1 11 0 | 11 14 6 |
| 690 | 1 13 0 | 11 19 6 |
| 705 | 1 15 0 | 12 5 0 |
| 720 | 1 17 0 | 12 10 0 |
| 735 | 1 19 0 | 12 15 0 |
| 750 | 2 1 0 | 13 0 0 |
| 765 | 2 3 0 | 13 5 0 |
| 780 | 2 5 0 | 13 10 6 |
| 795 | 2 7 0 | 13 15 6 |
| 810 | 2 9 0 | 14 0 6 |
| 825 | 2 11 0 | 14 5 6 |
| 840 | 2 13 0 | 14 10 6 |
| 855 | 2 15 0 | 14 16 0 |
| 870 | 2 17 0 | 15 1 0 |
| 885 | 2 19 0 | 15 6 0 |
| 900 | 3 1 0 | 15 11 0 |
| 915 | 3 3 0 | 15 16 0 |
| 930 | 3 5 0 | 16 1 6 |
| 945 | 3 7 0 | 16 6 6 |
| 960 | 3 9 0 | 16 11 6 |
| 975 | 3 11 0 | 16 16 6 |
| 990 | 3 13 0 | 17 1 6 |
| 1,005 | 3 15 0 | 17 7 0 |
| 1,020 | 3 17 0 | 17 12 0 |
| 1,035 | 3 19 0 | 17 17 0 |
| 1,050 | 4 1 0 | 18 2 0 |
| 1,065 | 4 3 0 | 18 7 0 |
| 1,080 | 4 5 0 | 18 12 6 |
| 1,095 | 4 7 0 | 18 17 6 |
| 1,110 | 4 9 0 | 19 2 6 |
| 1,125 | 4 11 0 | 19 7 6 |
| 1,140 | 4 13 0 | 19 12 6 |

SCHEDULE—*continued*

| Annual reckonable earnings (1) | One-third of the excess up to £21 of average weekly earnings over £9 (2) | 85 per cent of average weekly earnings (3) |
|-----------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------|
| £ | £ s. d. | £ s. d. |
| 1,155 | 4 15 0 | 19 18 0 |
| 1,170 | 4 17 0 | 20 3 0 |
| 1,185 | 4 19 0 | 20 8 0 |
| 1,200 | 5 1 0 | 20 13 0 |
| 1,215 | 5 3 0 | 20 18 0 |
| 1,230 | 5 5 0 | 21 3 6 |
| 1,245 | 5 7 0 | 21 8 6 |
| 1,260 | 5 9 0 | 21 13 6 |
| 1,275 | 5 11 0 | 21 18 6 |
| 1,290 | 5 13 0 | 22 3 6 |
| 1,305 | 5 15 0 | 22 9 0 |
| 1,320 | 5 17 0 | 22 14 0 |
| 1,335 | 5 19 0 | 22 19 0 |
| 1,350 | 6 1 0 | 23 4 0 |
| 1,365 | 6 3 0 | 23 9 0 |
| 1,380 | 6 5 0 | 23 14 6 |
| 1,395 | 6 7 0 | 23 19 6 |
| 1,410 | 6 9 0 | 24 4 6 |
| 1,425 | 6 11 0 | 24 9 6 |
| 1,440 | 6 13 0 | 24 14 6 |
| 1,455 | 6 15 0 | 25 0 0 |
| 1,470 | 6 17 0 | 25 5 0 |
| 1,485 | 6 19 0 | 25 10 0 |
| 1,500 | 7 0 0 | 25 10 0 |

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations are made in consequence of the National Insurance Act 1966 and accordingly, by virtue of section 14(6) of that Act, no reference of them has been made to the National Insurance Advisory Committee.

The Regulations make provision concerning the income tax year to be used in ascertaining reckonable earnings for the purposes of earnings-related benefit (both by way of earnings-related supplement to unemployment and sickness benefit and of widow's supplementary allowance), the calculation of those earnings and the maintenance of records by employers, the calculation of the benefit, the entitlement to earnings-related supplement of widows who do not qualify for flat-rate unemployment or sickness benefit, and transitional provisions.