
 S T A T U T O R Y I N S T R U M E N T S

1970 No. 1981

SOCIAL SECURITY

The National Insurance (General Benefit) Regulations 1970

<i>Made</i>	17th December 1970
<i>Laid before Parliament</i>	30th December 1970
<i>Coming into Operation</i>	31st December 1970

The National Insurance Joint Authority, in exercise of powers under sections 18(2), 41(3), 43(2)(c), 49(1), 49(2), 51, 55 and 114(1) of the National Insurance Act 1965(a), and the Secretary of State for Social Services, in exercise of powers under sections 81(3), 81(4), 81(7) and 114(3) of that Act, in either case 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 them in that behalf, and for the purpose only of consolidating the regulations hereby revoked, hereby make the following regulations:—

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (General Benefit) Regulations 1970, and shall come into operation on 31st December 1970.

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

“the Act” means the National Insurance Act 1965;

“the Industrial Injuries Act” means the National Insurance (Industrial Injuries) Act 1965(b);

“the Secretary of State” means the Secretary of State for Social Services;

“the Determination of Claims and Questions Regulations” means the National Insurance (Determination of Claims and Questions) (No. 2) Regulations 1967(c);

“contributions” has the same meaning as in the Act save that it does not include graduated contributions under the Act;

“the determining authority” means, as the case may require, the Chief National Insurance Commissioner appointed under section 9 of the National Insurance Act 1966(d) or any other National Insurance Commissioner so appointed or any tribunal constituted under subsection (3) of that section, a local tribunal constituted under section 77 of the Act or an insurance officer appointed under section 68(1) of the Act;

and other expressions have the same meanings as in the 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

(a) 1965 c. 51.

(c) S.I. 1967/1570 (1967 III, p. 4350).

(b) 1965 c. 52.

(d) 1966 c. 6.

such enactment or regulations as amended or extended by or under any other enactment, order or regulations and as including references to any enactment or regulations thereby consolidated.

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

Definitions of “contribution year” and “benefit year”

2.—(1)(a) A contribution year in relation to any person shall be the period of 52 or 53 contribution weeks beginning in any year with the relevant contribution week (b) and ending with the contribution week next preceding the relevant contribution week in the following year.

(b) In this paragraph the expression “relevant contribution week” means in relation to any person the first complete contribution week in the month of March, June, September or December as may be determined by the Secretary of State to be applicable in his case.

(2) A benefit year in relation to any person shall be the period of 52 or 53 contribution weeks beginning in any year with the first complete contribution week in the fifth month after the month in which the said relevant contribution week applicable to that person occurs, and ending with the last contribution week beginning in the fourth month after the last mentioned month in the following year.

Calculation of yearly average of contributions

3. For the purposes of section 18(2) of the Act (calculation of the yearly average of contributions), the yearly average of contributions paid by or credited to any person in relation to widow’s benefit or a retirement pension shall be calculated by dividing, by the number of years comprised in the period over which, under the said section 18(2), the average is to be calculated, the sum total of the contributions as an insured person paid by or credited to that person in respect of that period other than the following contributions:—

- (a) contributions which are not paid on their due dates and are not treated in accordance with regulations under the Act as so paid for the purposes of widow’s benefit and retirement pension;
- (b) contributions credited under the Act only for purposes other than the purposes of widow’s benefit and retirement pension.

Increase of benefit for wife

4.—(1) For the purposes of an increase of unemployment benefit, sickness benefit or a retirement pension under section 43 of the Act (increase of benefit for adult dependants) two spouses shall not be deemed to have ceased to reside together by reason of any absence of either or both of them while receiving medical or other treatment as an in-patient in a hospital or similar institution, notwithstanding that such absence is not temporary.

(a) 1889 c. 63.

(b) See s. 114(1) National Insurance Act 1965.

(2) The provisions of this regulation shall apply to absence commencing before as well as after the date on which these regulations come into force, subject to the qualification that no benefit shall be payable by virtue of paragraph (1) of this regulation in respect of any period before the 18th November 1957.

Increase of benefit for female person having care of child

5. For the purposes of subsections (2)(c) and (4) of section 43 of the Act (increase of unemployment benefit, sickness benefit or retirement pension for a female person, not being a child, who has the care of a child or children of the beneficiary's family), the following further conditions shall apply in relation to any such female person:—

(1) A beneficiary shall not be entitled to an increase of benefit under the said subsection (2)(c) or (4) in respect of any such female person unless—

- (a) she is residing with the beneficiary; or
- (b) she is employed by the beneficiary in an employment from which her weekly earnings (calculated or estimated in such manner and on such basis as is contained in the National Insurance (Computation of Earnings) Regulations 1967)(a) are not less than the amount set out in column 6 of Schedule 3 to the Act, and was so employed by him before he became unemployed or incapable of work or retired from regular employment, as the case may be, subject to the qualification that the condition of employment before that event shall not apply in a case where the necessity for her employment first arose thereafter; or
- (c) the beneficiary is contributing to her maintenance at a weekly rate not less than the amount set out in column 6 of Schedule 3 to the Act.

(2) A beneficiary shall not be entitled to an increase of benefit under the said subsection (2)(c) or (4) in respect of any such female person for any period in which that female person—

- (a) is undergoing imprisonment or detention in legal custody; or
- (b) (not being a person who is employed by, but is not residing with, the beneficiary) is engaged in any gainful occupation or occupations (other than her employment by the beneficiary in caring for a child or children of the beneficiary's family) from which her weekly earnings (calculated or estimated in such manner and on such basis as is prescribed for the purposes of section 43(1) of the Act) exceed the amount of the increase specified in column 6 of Schedule 3 to the Act; or
- (c) is absent from Great Britain, except in the case of sickness benefit or a retirement pension for any period during which she is residing with the beneficiary outside Great Britain and for which, by virtue of the provisions of regulation 7 of the National Insurance (Residence and Persons Abroad) Regulations 1948(b), as amended(c), the beneficiary is not disqualified for receiving that benefit.

(a) S.I. 1967/760 (1967 II, p. 2266).

(b) S.I. 1948/1275 (Rev. XVI, p. 88: 1948 I, p. 2864).

(c) The relevant amending instruments are S.I. 1955/983, 1958/1084, 1967/828 (1955 I, p. 1624; 1958 II, p. 1581; 1967 II, p. 2474).

(3) A beneficiary shall not be entitled to an increase of benefit under the said subsection (2)(c) or (4) in respect of any such female person unless the beneficiary is entitled to an increase of benefit in respect of a child of his family as specified in the said subsection (2)(c) or would be so entitled but for the provisions of any regulations for the time being in force under the Act relating to overlapping benefits.

Provisions as to maintenance

6.—(1) For the purposes of the provisions of Part II of the Act (which relates to benefit), a beneficiary shall not be deemed to be wholly or mainly maintaining another person unless the beneficiary—

- (a) when unemployed, or incapable of work, or, as the case may be, retired from regular employment, contributes towards the maintenance of that person an amount not less than the amount of increase of benefit received in respect of that person; and
- (b) when in employment, or not incapable of work, or, as the case may be, not so retired (except in a case where the dependency did not arise until after that time) contributed more than one half of the actual cost of maintenance of that person:

Provided that where—

- (i) a person is partly maintained by each of two or more other persons (being persons entitled to benefit either under the Act or under the Industrial Injuries Act, of whom at least one is entitled to benefit under the Act), each of whom would be entitled to an increase of benefit under the relevant Act in respect of that person if he were wholly or mainly maintaining that person; and
- (ii) the contributions made by those other persons towards the maintenance of that person amount in the aggregate to sums which would, if they had been contributed by one of them, be sufficient to satisfy the requirements of this regulation;

that person shall be deemed to be wholly or mainly maintained by that one of the said other persons who makes the largest contribution or, if there is no such person, by the elder or eldest of the said other persons, or (if a majority thereof by notice in writing signed by them and addressed to the Secretary of State designate any one of their number) by that one designated so long as the person deemed to be so maintaining that person continues to be entitled to benefit under the Act and to satisfy the conditions contained in sub-paragraph (a) of this paragraph.

(2) A notice and the designation contained therein given under the proviso to the foregoing paragraph may be revoked at any time by a fresh notice signed by a majority of such persons, and another one of their number may be designated therein, and accordingly the provisions of that proviso shall apply to the one so last designated.

Contribution to maintenance of adult dependant

7. For the purposes of section 43(1) of the Act (increase of unemployment benefit, sickness benefit or retirement pension in respect of a wife) or of regulation 5(1)(c) of these regulations—

- (a) a beneficiary shall not be deemed to satisfy the requirement contained in the said section 43(1) or the said regulation 5(1)(c) that he is contributing to the maintenance of the wife or female person, as the case may be,

at a weekly rate of not less than the amount set out in column 6 of Schedule 3 to the Act, unless when in employment, or not incapable of work, or not retired from regular employment, as the case may be (except in a case where the dependency did not arise until after that time) he contributed to her maintenance at a weekly rate of not less than that amount; and

- (b) in a case where an increase of benefit is, apart from the said requirement, payable at a weekly rate less than that specified in Schedule 3 to the Act, a beneficiary shall, subject to the foregoing paragraph, be deemed to satisfy the said requirement, if he is contributing to the maintenance of the wife or female person as the case may be, at a weekly rate of not less than that of the increase.

Children treated as included in a family for increase of certain benefits

8. For the purposes of section 41(3) of the Act (treating certain children as included in a man's family for the purpose of an increase of unemployment benefit, sickness benefit or a retirement pension) the prescribed rate shall be a rate equal to the amount for the time being specified in column 5 of Schedule 3 to the Act in relation to the benefit in question, being the amount of the increase for a third or additional qualifying child.

Contribution towards cost of providing for child

9.—(1) Where, apart from section 42(1) of the Act, a person is entitled to receive, in respect of a particular child who is, or who falls to be treated for the purposes of the relevant provision as, a child of that person's family, payment of an amount by way of a guardian's allowance under section 29 of a child's special allowance under section 38 of the Act or of an increase under any of the provisions of section 40 of the Act of any benefit for any period, and neither of the conditions set out in the said section 42(1), that is to say—

- (a) that the child in question is living with that person; or
(b) that contributions to the cost of providing for the child in question are being made at a weekly rate not less than that required by that section;

is satisfied, that person shall nevertheless for the purposes of the said section 42(1) be deemed as respects that period to be making the contributions so required at a weekly rate not less than that required by that section if—

- (i) he gives an undertaking in writing to make such contributions; and
(ii) on receiving the amount of the allowance or increase in question, he in fact makes such contributions;

so however, that if in respect of any period he fails to make the contributions which he has undertaken to make in accordance with this regulation, the decision awarding the allowance or increase in question for that period in respect of that child shall be revised.

(2) Where, for the purposes of section 40 of the Act, a person has a family which includes children, one or more of whom is, or are, treated as included in his family only by virtue of the provisions of section 41(3) of the Act (which child or children are hereafter in this paragraph referred to as a "treated child" or "treated children"), and there is, or are, also another child or other children living with that person who is, or are, included or treated as included in his family otherwise than by virtue of the said section 41(3) (which child or children

are hereafter in this paragraph referred to as the "said other child or children"), that person shall, in relation to an increase of sickness benefit, unemployment benefit or retirement pension in respect of a treated child, be deemed to be contributing to the cost of providing for that child for the purposes of section 42(1)(b) of the Act at a weekly rate not less than that required in the case of that child by that section if he contributes to the cost of providing for that child at a rate not less than the rate which would be appropriate in the circumstances of the case if the said other child or children were older than the treated child or (if there is more than one treated child) any of the treated children.

Allocation of contributions for wife or children

10.—(1) Subject to the provisions of this regulation, any sum or sums paid by a person by way of contribution towards either or both of the following, that is to say, the maintenance of his wife and the cost of providing for one or more children, being children to whom this regulation refers, shall be treated for the purposes of sections 38(c), 41(3), 42(1)(b) and 43(1)(a)(ii) of the Act as such contributions, of such respective amounts equal in the aggregate to the said sum or sums, in respect of such of the persons hereinafter mentioned, that is to say, his wife or any child or children to whom this regulation refers, as may be determined by the determining authority so as to secure as large a payment as possible by way of benefit in respect of dependants.

(2) A determination under the foregoing paragraph, made in order to ascertain for the purpose of the said section 38(c) the weekly rate at which the husband had before his death been contributing to the cost of providing for a child, may be varied on review from time to time by the determining authority so often as may be necessary to secure as large a payment as possible by way of the child's special allowance, so however that no such review shall affect entitlement in respect of any period before the date of the review.

(3) The children to whom this regulation refers are any children who, in the period for which the sum in question is paid by the person, either are included in that person's family or though not so included could have been treated under paragraph 3 of the Schedule to the Family Allowances Act 1965(a) as so included, or would have been, or could have been treated under that paragraph as, so included had the person contributed to the cost of providing for the child at a sufficient weekly rate:

Provided that, for the purpose only of such determination as is referred to in paragraph (2) of this regulation, the children to whom this regulation refers are any children such as are mentioned in section 38(b) of the Act.

(4) A sum paid by way of contribution towards the maintenance of a wife shall not be treated by virtue of this regulation as a sum paid by way of contribution towards the cost of providing for a child or children, and a sum paid by way of contribution towards the cost of providing for a child or children shall not be so treated as a sum paid by way of contribution towards the maintenance of a wife, unless in either case the child or children is or are included in the family of the wife or though not so included could have been treated under paragraph 3 of the Schedule to the Family Allowances Act 1965 as so included:

Provided that, for the purpose only of such determination as is referred to in paragraph (2) of this regulation, a child shall be deemed to satisfy the condition contained in this paragraph if he would have satisfied it but for the fact that he was not then in Great Britain.

Exceptions from disqualification for imprisonment, etc.

11.—(1) The following provisions of this regulation shall have effect to except benefit from the operation of those provisions of section 49(1) of the Act which provide that (except where regulations otherwise provide) a person shall be disqualified for receiving any benefit, and an increase of benefit shall not be payable in respect of any person as the beneficiary's wife or husband, for any period during which that person is undergoing imprisonment or detention in legal custody (hereafter in this regulation referred to as "the said provisions").

(2) The said provisions shall not operate to disqualify a person for receiving a guardian's allowance.

(3) The said provisions shall not operate to disqualify a person for receiving sickness benefit, widow's benefit, child's special allowance, maternity allowance or retirement pension, or to make an increase of benefit not payable in respect of a person, for any period during which that person is undergoing imprisonment or detention in legal custody in connection with a charge brought or intended to be brought against him in criminal proceedings or pursuant to any sentence or order for detention made by a court in such proceedings unless, in relation to him, a penalty is imposed at the conclusion of those proceedings.

(4) In the last foregoing paragraph, "penalty" means a sentence of imprisonment, borstal training, or detention under section 53 of the Children and Young Persons Act 1933(a), or under section 57 of the Children and Young Persons (Scotland) Act 1937(b), or under section 1(4) of the Criminal Justice (Scotland) Act 1963(c), or an order for detention in a detention centre, a remand home or an approved school, but does not include any sentence of imprisonment or order for detention in default of payment of a sum adjudged to be paid on conviction.

(5) The said provisions shall not operate to disqualify a person for receiving any benefit (not being a guardian's allowance), or to make an increase of benefit not payable in respect of a person, for any period during which that person is undergoing detention in legal custody after the conclusion of criminal proceedings if it is a period during which he is liable to be detained in a hospital or similar institution in Great Britain as a person suffering from mental disorder unless—

(a) pursuant to any sentence or order for detention made by the court at the conclusion of those proceedings, he has undergone detention by way of penalty in a prison, a detention centre, a borstal institution, a young offenders institution, a remand home or an approved school; and

(b) he was removed to the hospital or similar institution while liable to be detained as a result of that sentence or order, and, in the case of a person who is liable to be detained in the hospital or similar institution by virtue of any provision of the Mental Health Act 1959(d) or the Mental Health (Scotland) Act 1960(e), a direction restricting his discharge has been given under those Acts and is still in force:

Provided that where, as respects a person in relation to whom each of the conditions specified in sub-paragraphs (a) and (b) of this paragraph is satisfied, a certificate, given by or on behalf of the Secretary of State for the Home Department or the Secretary of State for Scotland and furnished to the Secretary of State shows the earliest date on which that person would have been expected to be discharged from detention pursuant to the said sentence or order if he had

(a) 1933 c. 12.
(c) 1963 c. 39.
(e) 1960 c. 61.

(b) 1937 c. 37.
(d) 1959 c. 72.

not been transferred to a hospital or similar institution, the said conditions shall be deemed not to be satisfied in relation to that person as from the day next following that date.

(6) For the purposes of the last foregoing paragraph—

- (a) “hospital or similar institution” means any place (not being a prison, a detention centre, a borstal institution, a young offenders institution, a remand home, a remand centre or an approved school and not being at or in any such place) in which persons suffering from mental disorder are or may be received for care or treatment;
- (b) “court” means any court in the United Kingdom, the Channel Islands or the Isle of Man or in any place to which the Colonial Prisoners Removal Act 1884(a) applies or any naval court-martial, army court-martial or air force court-martial within the meaning of the Courts-Martial (Appeals) Act 1968(b), or the Courts-Martial Appeal Court;
- (c) in relation to a person who is liable to be detained in Great Britain as a result of any order made under the Colonial Prisoners Removal Act 1884, references to a prison shall be construed as including references to a prison within the meaning of that Act;
- (d) a person who is liable to be detained by virtue of any provision of the Mental Health Act 1959 or the Mental Health (Scotland) Act 1960 shall be treated as if a direction restricting his discharge had been given under that Act if he is to be so treated for the purposes of those Acts.

(7) In this regulation—

- (a) references to mental disorder shall be construed as including references to any mental disorder within the meaning of the Mental Health Act 1959 or the Mental Health (Scotland) Act 1960;
- (b) “approved school” means a school approved under section 79 of the Children and Young Persons Act 1933 or under section 83 of the Children and Young Persons (Scotland) Act 1937;
- (c) criminal proceedings against any person shall be deemed to be concluded upon his being found insane in those proceedings so that he cannot be tried or his trial cannot proceed.

Suspension of payment of benefit during imprisonment, etc.

12.—(1) The payment to any person of any benefit—

- (a) which is excepted from the operation of the said section 49(1) of the Act by virtue of the provisions of paragraph (2) or paragraph (3) of the last preceding regulation; or
- (b) which is payable otherwise than in respect of a period during which he is undergoing imprisonment or detention in legal custody;

shall be suspended while that person is undergoing imprisonment or detention in legal custody:

Provided that—

- (i) the provisions of this regulation shall not operate to require the payment of any benefit to be suspended while the beneficiary is liable to be detained in a hospital or similar institution as defined

(a) 1884 c. 31.

(b) 1968 c. 20.

for the purposes of paragraph (5) of that regulation during a period for which, in his case, benefit to which that paragraph applies is or would be excepted from the operation of the said section 49(1) by virtue of the provisions of that paragraph; and

- (ii) a guardian's allowance or any benefit to which sub-paragraph (b) of this paragraph applies may nevertheless be paid while the beneficiary is undergoing imprisonment or detention in legal custody to any person appointed for the purpose by the Secretary of State to receive and deal with any sums payable on behalf of the beneficiary on account of that benefit, and the receipt of any person so appointed shall be a good discharge to the Secretary of State and the National Insurance Fund for any sum so paid.

(2) Where, by virtue of the last preceding paragraph, payment of benefit is suspended for any period, the period of suspension shall not be taken into account in calculating the period of 12 months referred to in regulation 12(1) of the National Insurance (Claims and Payments) Regulations 1948(a) as amended (b) (extinguishment of the right to sums payable by way of benefit which are not obtained in the prescribed time) for the purpose of the application of that regulation in relation to that benefit.

Interim payments, arrears and repayments

13.—(1) Subject to the provisions of this regulation, benefit shall be payable in accordance with an award, notwithstanding that an appeal against the award is pending, and, subject as aforesaid and to the provisions of section 81 of and Schedule 7 to the Act, regulation 16 of the Determination of Claims and Questions Regulations and regulation 3(1) of the National Insurance and Industrial Injuries (Miscellaneous and Consequential Provisions) Regulations 1966(c), shall be treated as having been duly paid and shall not be recoverable under the provisions of the Act or otherwise.

(2) Where an appeal to the National Insurance Commissioner from an award of a local tribunal is made within 21 days of the date on which an award was given, payment of the benefit (or that part of the benefit) to which the appeal relates shall, in the case of any of the following benefits, be suspended until the appeal has been determined:—

- (a) unemployment benefit, provided the ground of the appeal is that the claimant ought to be disqualified for receiving benefit by reason of the provisions of section 22(1) of the Act (disqualification for unemployment benefit in respect of unemployment due to a trade dispute); and
- (b) maternity benefit, widow's benefit, child's special allowance, guardian's allowance, or a retirement pension.

(3) Where two or more claims are made for unemployment benefit or for sickness benefit by an insured person in respect of different periods in the same period of interruption of employment, and (at the date when a claim in respect of any such first mentioned period is determined, or the decision in respect thereof is revised, in favour of that person by the determining authority) benefit of the same description has been received by him in respect of any days in the said period of interruption of employment subsequent to the days to which that determination or the said revised decision relates, then, if it is shown that by

(a) S.I. 1948/1041 (Rev. XVI, p. 313; 1948 I, p. 2709).

(b) The relevant amending instrument is S.I. 1969/289 (1969 I, p. 788).

(c) S.I. 1966/1006 (1966 II, p. 2403).

reason of section 21(1) or, as the case may be, section 21(2) of the Act (exhaustion of unemployment benefit and sickness benefit respectively) benefit would be overpaid if the benefit payable under the said determination or the said revised decision were paid, the following provisions shall apply:—

- (a) any such benefit so subsequently paid which on the foregoing basis would have been overpaid shall be treated as having been paid on account of the benefit payable under the said determination or the said revised decision, and the amount due under that determination or decision shall be reduced accordingly; and
- (b) for the purposes of requalification for unemployment or sickness benefit under section 21(3) of the Act, the last day for which the insured person was entitled to any such benefit shall be taken to be the day on which, having regard to the said determination or the said revised decision and the provisions of this regulation, his right to the appropriate benefit is exhausted under that section.

(4) Where on appeal or review a decision is reversed or varied or revised and by reason thereof any sum on account of unemployment benefit or sickness benefit, as the case may be, is shown to have been paid to any person for days for which he was not entitled thereto, then, in determining for the purposes of section 21 of the Act whether that person has exhausted his right to the appropriate benefit and what is the last day for which he was entitled thereto, any days for which any such sum has been so paid in pursuance of the original decision shall be treated as if they were days for which that person was entitled to that benefit notwithstanding the provisions of regulations 7(1)(c) and (7)(1)(d) of the National Insurance (Unemployment and Sickness Benefit) Regulations 1967(a):

Provided that—

- (a) if any sum was so paid to such a person and that sum or any part thereof is recovered, then there shall be excluded for the purposes of the said determination under the said section 21 a number of days (to the nearest whole number) equal to the number to be obtained by dividing the amount recovered by the daily rate at which the benefit was paid; and
- (b) for the purposes of requalification for unemployment or sickness benefit under the said section 21(3), the provisions of sub-paragraph (b) of the immediately preceding paragraph shall apply.

(5) The provisions of paragraph (3) of this regulation shall apply to earnings-related supplement payable by way of an increase of unemployment benefit or sickness benefit under section 2 of the National Insurance Act 1966(b) with the following modifications—

- (a) earnings-related supplement of unemployment benefit may be treated as paid on account of sickness benefit and earnings-related supplement of sickness benefit may be treated as paid on account of unemployment benefit; and
- (b) where two or more claims are made for benefit by an insured person in respect of different periods in (or in what, but for section 21(3)(b) of the Act, would have been) the same period of interruption of employment, and (at the date when a claim in respect of any such first mentioned period is determined, or the decision in respect thereof is revised, in favour of that person by the determining authority) an increase of benefit by way of earnings-related supplement under the said section 2 has been received

(a) S.I. 1967/330 (1967 I, p. 1131).

(b) 1966 c. 6.

by him in respect of any days in the said period of interruption of employment subsequent to the days to which that determination or the said revised decision relates, then, if it is shown that by reason of section 2(3) of the said Act of 1966 (limitation of earnings-related supplement to 156 days in the same period of interruption of employment) benefit would be overpaid if the increase of such benefit payable under the said determination or the said revised decision were paid, the provisions of head (a) of the said paragraph (3) shall apply to such benefit.

(6) Where a sum on account of earnings-related supplement is shown to have been paid to any person for days for which he was not entitled thereto, then, in determining for the purposes of section 2(3) of the said Act of 1966 whether that person has been entitled to the supplement in respect of an aggregate of 156 days, any days for which any such sum has been so paid shall be treated as if they were days for which that person was entitled to the supplement, except that if that sum or any part thereof is recovered there shall be excluded a number of days (to the nearest whole number) equal to the number to be obtained by dividing the amount recovered by the daily rate at which the supplement was paid.

(7) Where—

- (a) on appeal against an award of benefit, a decision is reversed or varied, so that such benefit is not payable or is payable at a less rate; and
- (b) on review, the decision on that appeal is revised so as to make such benefit payable, or payable at a higher rate, from a date before the decision on appeal;

any benefit paid in pursuance of the award before the decision on appeal shall, to the extent to which it would not have been payable if the decision on appeal had been given in the first instance, be treated as having been paid on account of any benefit made payable for the same period by the decision on review, except in so far as it has, in pursuance of the decision on appeal, been repaid or treated as paid on account of the benefit awarded by that decision.

(8) Where, in accordance with a decision given on a review or appeal, any benefit is required to be repaid to the National Insurance Fund or, as the case may be, to a local education authority, then, without prejudice to any other method of recovery, such benefit shall be recoverable by deduction from any benefit then or thereafter payable to the person by whom it is to be repaid or any persons entitled to receive his benefit on his death.

(9) Where—

- (a) by virtue of section 81 of the Act (recovery and repayment of benefit wrongly paid) a decision given on appeal or review requires repayment of unemployment benefit to the National Insurance Fund; and
- (b) such benefit had been received from a local education authority administering unemployment benefit by virtue of section 11 of the Employment and Training Act 1948(a),

that requirement shall have effect as if it were a requirement to repay such benefit to the National Insurance Fund or to the local education authority.

(10) Where, under arrangements made by the Secretary of State with the consent of the Treasury for the purpose of dealing with any emergency, payment by way of unemployment benefit or, as the case may be, sickness benefit or maternity benefit has been made to any person pending the determination of a claim therefor, without due proof of the fulfilment of the relevant conditions or

otherwise than in accordance with the provisions of the Act and the orders and regulations made thereunder, the payment so made shall, for the purposes of the said provisions, be deemed to be a payment of such benefit duly made:

Provided that this paragraph shall apply without prejudice to the operation of regulation 3(1) of the National Insurance and Industrial Injuries (Miscellaneous and Consequential Provisions) Regulations 1966(a) (which provides for the set-off of benefit against earlier payment of dependency benefit) and in a case in which the conditions for the receipt of any such benefit were not fulfilled and in so far as set-off under the said regulation 3(1) against payment of such benefit is not made, subject to the following provisions—

- (a) if it is shown at any time to the satisfaction of the determining authority that in the obtaining and receipt of such a payment the person to whom it has been made, or any person acting for him, has not throughout used due care and diligence to avoid overpayment, he shall be liable to repay to the National Insurance Fund any sum so paid; and
- (b) if it is so shown that any such person was entitled to some benefit other than unemployment benefit or, as the case may be, sickness benefit or maternity benefit for the period in respect of which the payment was made, such payment (in so far as it does not exceed the amount of such other benefit) shall not be deemed to be a payment of the benefit in question, but a payment of such other benefit duly made.

Disqualifications to be disregarded for certain purposes

14.—(1) Where a person of any class mentioned in column (1) of Schedule 1 to these regulations would be entitled to the benefit set opposite to that class in column (2) of that Schedule but for the operation of any provision of the Act disqualifying him for the receipt of that benefit, that person shall be treated as if entitled to that benefit for the purpose of the provisions of the Act set opposite thereto in column (3) of the said Schedule and of any regulations made thereunder:

Provided that a person shall not be so treated, for the purpose of that provision of section 41(4) of the Act which relates to priority of title between husband and wife in relation to an increase of retirement pension for a child, if that person is disqualified for receiving such increase by reason of the provisions of section 49(1)(b) of the Act.

(2) Where a widow would have been entitled to widow's benefit but for the operation of any provision of the National Insurance Act 1946(b) disqualifying her for the receipt of that benefit, that widow shall be treated as if she had been entitled to that benefit for the purpose of the provisions of paragraph 19(e) of Schedule 11 to the Act.

(3) For the purpose of determining whether the condition contained in section 48(1) of the Act (which makes a claim a condition of right to benefit) is satisfied, a person who would be entitled to any benefit but for the operation of any provision of the Act disqualifying him for the receipt thereof, and who ceases to be so disqualified within a period of three months from the commencement of the disqualification, shall be treated as if entitled thereto.

(a) S.I. 1966/1006 (1966 II, p. 2403).

(b) 1946 c. 67.

Revocation and general savings

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

(2) Anything whatsoever done under or by virtue of any regulation 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.

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

Paul Dean,
Parliamentary Under Secretary of State,
Department of Health and Social Security.

17th December 1970.

Given under the official seal of the National Insurance Joint Authority.

(L.S.)

Norah E. Wade,
A person authorised by the National Insurance
Joint Authority to act on behalf of the Secretary,
National Insurance Joint Authority.

17th December 1970.

H. S. P. Monro,
Bernard Weatherill,
Two of the Lords Commissioners
of Her Majesty's Treasury.

17th December 1970.

Regulation 14

SCHEDULE 1

Provisions for the purpose of which disqualifications under the Act are to be disregarded

Class of persons (1)	Benefit for which person is disqualified (2)	Section of the Act for the purpose of which disqualification is to be disregarded (3)	Subject matter (4)
A widow	Widow's benefit	Schedule 11, para. 4(1)	Widows' pensions for widows under pensionable age who on ceasing to be entitled to widow's benefit are incapable of self-support.
		Schedule 11, para. 5(1)	Retirement pensions by virtue of husbands' insurance for widows entitled, immediately before attaining pensionable age, to widow's benefit in respect of their husband's death.
		Schedule 11, para. 6	Calculation of yearly average of contributions for retirement pensions for widows by virtue of their own insurance, who are not entitled to widow's benefit immediately before attaining pensionable age.
	Widow's allowance	27(3)	Period for which a widowed mother's allowance is payable (being a period for which she is not entitled to a widow's allowance).
	Widow's allowance or widowed mother's allowance	28(4)	Period for which a widow's pension is payable (being a period for which she is not entitled to a widow's allowance or a widowed mother's allowance).
Widowed mother's allowance	28(3)	Widows' pensions for certain widows ceasing to be entitled to widowed mother's allowance.	
Widow's pension under para. 4(1) of Schedule 11	Schedule 11, para. 4.	Widow's pensions for certain widows ceasing to be entitled to pension under para. 4(1) of Schedule 11 at a time when they are over the age of fifty but under the age of sixty-five.	
The husband of a widow	Retirement pension	26(1)(b)	Widow's allowance for widow of husband who at the date of his death was not entitled to a retirement pension.

Class of persons	Benefit for which person is disqualified	Section of the Act for the purpose of which disqualification is to be disregarded	Subject matter
(1)	(2)	(3)	(4)
One of two spouses	Increase of retirement pension for a child	41(4)	Priority of title between husband and wife to increase of retirement pension for a child.

SCHEDULE 2

Regulation 15(1)

Regulations revoked (1)	Reference (2)	Extent of revocation (3)
The National Insurance (General Benefit) Regulations 1948.	S.I. 1948/1278 (Rev. XVI, p.179: 1948 I, p.2626).	The whole regulations.
The National Insurance (General Benefit) Amendment Regulations 1949.	S.I. 1949/1984 (1949 I, p.2691).	The whole regulations.
The National Insurance (General Benefit) Amendment (No. 2) Regulations 1949.	S.I. 1949/2318 (1949 I, p.2692).	The whole regulations.
The National Insurance (Child's Special Allowance) Regulations 1957.	S.I. 1957/1835 (1957 I, p.1523).	In the Schedule the entries relating to the National Insurance (General Benefit) Regulations 1948 as amended.
The National Insurance (General Benefit) Amendment Regulations 1957.	S.I. 1957/1888 (1957 I, p.1534).	The whole regulations.
The National Insurance (General Benefit) Amendment (No. 2) Regulations 1957.	S.I. 1957/2146 (1957 I, p.1541).	The whole regulations.
The National Insurance (Graduated Contributions and Non-participating Employments—Miscellaneous Provisions) Regulations 1960.	S.I. 1960/1210 (1960 II, p. 2234).	In the Schedule the entry relating to the National Insurance (General Benefit) Regulations 1948.
The National Insurance (General Benefit) Amendment Regulations 1960.	S.I. 1960/1282 (1960 II, p.2154).	The whole regulations.
The National Insurance (General Benefit) Amendment Regulations 1961.	S.I. 1961/2381 (1961 III, p.4386).	The whole regulations.
The Family Allowances, National Insurance and Industrial Injuries (Consequential) Regulations 1962.	S.I. 1962/326 (1962 I, p.300).	Regulation 4.

Regulations revoked (1)	References (2)	Extent of revocation (3)
The National Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations 1963.	S.I. 1963/394 (1963 I, p. 424).	Regulation 21.
The National Insurance (Widow's Benefit) (Consequential Provisions) Regulations 1964.	S.I. 1964/2001 (1964 III, p.5061).	Regulation 3.
The National Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations 1965.	S.I. 1965/40 (1965 I, p.47).	Item 9 in Schedule L.
The National Insurance (General Benefit) Amendment Regulations 1965.	S.I. 1965/1524 (1965 II, p.4409).	The whole regulations.
The National Insurance (General Benefit) Amendment Regulations 1966.	S.I. 1966/388 (1966 I, p.874).	The whole regulations.
The National Insurance (Miscellaneous Consequential Amendments and Transitional Provisions) Regulations 1966.	S.I. 1966/1010 (1966 II, p.2407).	In regulation 1(2) the definition of "the General Benefit Regulations"; and regulation 3.
The National Insurance (Computation of Earnings) Regulations 1967.	S.I. 1967/760 (1967 II, p.2266).	Regulation 2.
The Family Allowances, National Insurance and Industrial Injuries (Consequential) Regulations 1968.	S.I. 1968/524 (1968 I, p.1246).	Regulation 2.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations are made for the purpose only of consolidating Regulations hereby revoked and accordingly, by virtue of section 108(9)(c) of the National Insurance Act 1965, no reference of them has been made to the National Insurance Advisory Committee.

These Regulations contain miscellaneous provisions of a general character affecting benefits under the National Insurance Act 1965, and relate to definitions of "contribution year" and "benefit year" for the purposes of that Act (regulation 2); the calculation of the yearly average of contributions for the purposes of widow's benefit and retirement pension (regulation 3); the provision that spouses shall not be deemed to have ceased to reside together because one or both is an in-patient in a hospital (regulation 4); the conditions on which benefits are subject to increase in respect of a female person having the care of a child (regulation 5); the circumstances in which a person shall be deemed to be wholly or mainly maintaining another person, or satisfying the requirements of the Act with regard to contributions to the maintenance of another person (regulations 6, 7, 8 and 9); the allocation of contributions made by a person towards more than one other person (regulation 10); exceptions from disqualification for receipt of benefit during periods of imprisonment or detention in legal custody (regulation 11); the suspension of payment of benefit during imprisonment or such detention (regulation 12); special provisions relating to the interim payment of benefits, arrears and repayment of benefit (regulation 13); and the disregarding of disqualifications for benefit for the purposes of certain provisions of the National Insurance Act 1965 (regulation 14).

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