

EXPLANATORY NOTE

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

This Order has effect on and from 2nd September, 1959. Part I of the Schedule amends the Brush and Broom Wages Council (Northern Ireland) Wages Regulation Order, 1948 (Order N.I.B.B. (56)) as amended by the Brush and Broom Wages Council (Northern Ireland) Wages Regulation (Amendment) Order, 1958 (Order N.I.B.B. (79)) by increasing the statutory minimum remuneration fixed by those Orders. Part II of the Schedule continues the amendment to the Brush and Broom Wages Council (Northern Ireland) Wages-Regulation (Holidays) Order, 1953 (Order N.I.B.B. (69)) contained in Part II of Order N.I.B.B. (79), which is revoked.

1959. No. 138

[C]

NATIONAL INSURANCE

Determination of Claims and Questions

REGULATIONS, DATED 21ST AUGUST, 1959, MADE BY THE NATIONAL INSURANCE JOINT AUTHORITY AND THE MINISTRY OF LABOUR AND NATIONAL INSURANCE, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1946, AND THE FAMILY ALLOWANCES AND NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1959.

The National Insurance Joint Authority and the Ministry of Labour and National Insurance, in conjunction with the Ministry of Finance, in exercise of the powers conferred by sections 40, 45 and 62 of the National Insurance Act (Northern Ireland), 1946(a), and by section 1 of the Family Allowances and National Insurance Act (Northern Ireland), 1959(b), and of all other powers enabling them in that behalf, hereby make the following regulations:

PART I

Citation, interpretation and commencement

1. These regulations, which may be cited as the National Insurance (Determination of Claims and Questions) Amendment (No. 2) Regulations (Northern Ireland), 1959, shall be read as one with the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland), 1948(c) (hereinafter referred to as "the principal regulations"), and shall come into operation on the 7th September, 1959.

(a) 1946. c. 23.

(b) 1959. c. 7.

(c) S.R. & O. (N.I.) 1948, No. 185 as amended by reg. 13 of, and Third Schedule to, National Insurance (Death Grant) Regulations (Northern Ireland), 1949 (S.R. & O. (N.I.) 1949, No. 142); S.R. & O. (N.I.) 1951, No. 157; reg. 21 of, and Second Schedule to, National Insurance (Maternity Benefit and Miscellaneous Provisions) Regulations (Northern Ireland), 1953 (S.R. & O. (N.I.) 1953, No. 123); S.R. & O. (N.I.) 1956, No. 8; S.R. & O. (N.I.) 1957, No. 169; S.R. & O. (N.I.) 1958, No. 159; and S.R. & O. (N.I.) 1959, No. 108.

PART II

Amendment of regulation 1 of the principal regulations

2. In paragraph (2) of regulation 1 of the principal regulations there shall be inserted immediately after the definition of "the Family Allowances Act" the following definition:

"'the Act of 1959' means the Family Allowances and National Insurance Act (Northern Ireland), 1959;".

Amendment of regulation 2 of the principal regulations

3. In regulation 2 of the principal regulations (which regulation relates to persons to determine claims and questions) for paragraph (3) there shall be substituted the following paragraph:

"(3) Any such question as is mentioned in sub-section (2) of section 40 of the Act shall be determined in accordance with the provisions of sub-section (1) of section 1 of the Act of 1959 and the regulations made by virtue of that sub-section".

Amendment of regulation 6 of the principal regulations

4.—(1) Regulation 6 of the principal regulations (which provides that certain decisions shall be conclusive for the purposes of proceedings under the Act) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the First Schedule.

(2) Paragraph (2) of the said regulation 6 shall be omitted.

(3) In paragraph (3) of the said regulation 6 there shall be substituted for the words "either of the preceding paragraphs" the words "paragraph (1) of this regulation", and the words "or under the Family Allowances Act, as the case may be" shall be omitted.

(4) In paragraph (4) of the said regulation 6 there shall be substituted for the words "in the preceding paragraphs" the words "in paragraph (1)", and the words "or any such application for a reference has been made" and the words "or making such an application" shall be omitted.

Amendment of regulation 11 of the principal regulations

5.—(1) Regulation 11 of the principal regulations (which regulation relates to appeals to local tribunals) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Second Schedule.

(2) In the proviso to paragraph (1) of the said regulation 11 for the words "sub-section (2) of section 40 of the Act" there shall be substituted the words "the proviso to sub-section (1) of section 1 of the Act of 1959".

Amendment of regulation 18 of the principal regulations

6.—(1) Regulation 18 of the principal regulations (which regulation relates to the review of decisions of an insurance officer, a local tribunal or the Umpire) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Third Schedule.

(2) In sub-paragraph (c) of paragraph (1) of the said regulation 18 for the words "the Family Allowances Act and the regulations made thereunder" there shall be substituted the words "the regulations made by virtue of sub-section (1) of section 1 of the Act of 1959".

PART III

Addition to the principal regulations

7.—(1) The following provisions shall be added after regulation 23 of the principal regulations :

“PART V

Transitional provisions

Definitions

24. In this Part and in the Schedule, unless the context otherwise requires—

“the Unemployment Insurance Acts” means the Unemployment Insurance Acts (Northern Ireland), 1936 to 1944;

“the Unemployment Insurance Act” means the Unemployment Insurance Act (Northern Ireland), 1936(a);

“the Health Insurance Acts” means the National Health Insurance Acts (Northern Ireland), 1936 to 1946;

“the Health Insurance Act” means the National Health Insurance Act, 1936(b);

“the Contributory Pensions Acts” means the Widows’, Orphans’ and Old Age Contributory Pensions Acts (Northern Ireland), 1936 to 1946;

“the Contributory Pensions Act” means the Widows’, Orphans’ and Old Age Contributory Pensions Act (Northern Ireland), 1936(c);

“the repealed Acts” means the Unemployment Insurance Acts, the Health Insurance Acts and the Contributory Pensions Acts (other than those provisions thereof not repealed by the Act) or any one or more of those Acts;

“the Transitional Regulations” means the National Insurance (Determination of Claims and Questions) (Transitional) Regulations (Northern Ireland), 1948(d).

Determination of questions arising under the repealed Acts

25. Where a question arising under or in connection with the repealed Acts—

(a) arises on or in connection with a claim to any benefit under those Acts; or

(b) affects or may affect any person’s right or prospective right to any benefit under the Act or to any benefit the right to which is preserved by or under the Act; or

(c) affects or may affect any person’s liability or entitlement to pay or to be credited with a contribution under the Act;

that question shall, subject to the modifications prescribed in this Part, be determined as if it were a question arising under or in connection with the Act and the provisions of the foregoing Parts shall apply and shall, for the purpose of such application, be construed accordingly.

Special provisions as to determination of questions by the Ministry

26. Where, by virtue of this Part or otherwise, any question which arises under or in connection with the repealed Acts or which is dependent upon or affected by the provisions of those Acts falls to be determined

(a) 26 Geo. 5 & 1 Edw. 8. c. 30 (N.I.). (c) 26 Geo. 5 & 1 Edw. 8. c. 32 (N.I.).
 (b) 26 Geo. 5 & 1 Edw. 8. c. 32. (d) S.R. & O. (N.I.) 1948, No. 233.

under the provisions of the foregoing Parts, paragraph (1) of regulation 2 shall have effect as if there were expressly included after the questions specified in sub-paragraphs (a), (b) and (c) thereof the following additional questions, that is to say, any question—

- (d) whether a person is or was an existing contributor and, if so, for which of the purposes of the repealed Acts;
- (e) as to the period during which a person was insured or treated as insured, or was entitled to be a voluntary contributor (including a special voluntary contributor), under the repealed Acts and as to the date of his last entry into insurance thereunder;
- (f) arising under or in connection with the Fourth Schedule to the Contributory Pensions Act;
- (g) whether any person was—
 - (i) a person employed, or
 - (ii) engaged in an excepted employment or an employment which would but for the Act have been an excepted employment, or
 - (iii) an exempt person,
 within the meaning of the repealed Acts.

Review of existing decisions

27. The provisions of the foregoing Parts as to review of decisions given thereunder shall apply to decisions given under the repealed Acts or under the Transitional Regulations as if any such decision as is specified in any paragraph of the first column of the Schedule were a decision given under these regulations by the person specified in the corresponding paragraph of the second column thereof:

Provided that for the purpose of the application by virtue of this regulation of the provisions of regulation 19 any benefit under the repealed Acts which is not named in that regulation shall be deemed—

- (a) in the case of benefit under the Health Insurance Acts to be sickness benefit, and
- (b) in the case of benefit under the Contributory Pensions Acts to be a guardian's allowance or a retirement pension."

(2) The Schedule contained in the Fourth Schedule shall be included in the principal regulations as the Schedule thereto.

Application to pending matters

8.—(1) Subject to the provisions of paragraph (2) the foregoing provisions of this Part shall apply to the determination on or after the date on which they come into operation of questions and matters arising before that date as they apply to the determination of questions and matters arising thereafter.

(2) Notwithstanding the provisions of the foregoing paragraph and of regulation 9, the provisions which would have applied if this Part had not been made shall continue to apply to—

- (a) the making or continuing and the determination of any appeal which was or which might have been made in accordance with the provisions of regulation 5 of the Transitional Regulations before the date on which these regulations come into operation; and
- (b) the determination of any question or the review of any decision being a question or decision which, before the date on which these regulations come into operation, the Ministry has authorised a referee appointed by it to determine or to review.

Revocation of regulations

9. The National Insurance (Determination of Claims and Questions) (Transitional) Regulations (Northern Ireland), 1948(a), are hereby revoked.

Given under the Official Seal of the National Insurance Joint Authority this 21st day of August, nineteen hundred and fifty-nine.

(L.S.)

Ian G. Gilbert,
Secretary.

Given under the Official Seal of the Ministry of Labour and National Insurance for Northern Ireland this 21st day of August, nineteen hundred and fifty-nine.

(L.S.)

H. A. Lowry,
Assistant Secretary.

Given under the Official Seal of the Ministry of Finance for Northern Ireland this 21st day of August, nineteen hundred and fifty-nine.

(L.S.)

K. R. Shimeld,
Assistant Secretary.

FIRST SCHEDULE

Regulation 4

CONTAINING REGULATION 6 OF THE PRINCIPAL REGULATIONS AS AMENDED*

Decisions to be conclusive for purposes of proceedings under the Act., etc.

6.—(1) Where in any proceedings—

(a) for an offence under the Act; or

(b) involving any question as to the payment of contributions under the Act;
or

(c) for the recovery of any sums due to the National Insurance Fund;

any question arises which under paragraph (1) of regulation 2 is to be determined by the Ministry (subject to an appeal on a question of law to the Supreme Court), the decision of the Ministry shall, unless such an appeal is pending or the time for so appealing has not expired, be conclusive for the purpose of those proceedings.

(3) If any such decision under *paragraph (1) of this regulation* has not been obtained and the decision of the question is necessary for the determination of the proceedings, the question shall be referred to the Ministry for decision in accordance with the procedure (subject to the necessary modifications) prescribed in this Part of these regulations.

(4) Where any such appeal as is mentioned in *paragraph (1) of this regulation* is pending, or the time for so appealing has not expired, or where any question has been referred to the Ministry, the court dealing with the case shall adjourn the proceedings until such time as a final decision upon the question has been obtained.

(a) S.R. & O. (N.I.) 1948, No. 233.

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

SECOND SCHEDULE

Regulation 5

CONTAINING REGULATION 11 OF THE PRINCIPAL REGULATIONS AS AMENDED*

Appeals to local tribunals

11.—(1) Subject to the provisions of this regulation, where an insurance officer has decided a question adversely to the claimant, the claimant may appeal to a local tribunal from the decision of the insurance officer:

Provided that where one of the questions mentioned in paragraph (1) of regulation 2, or in *the proviso to sub-section (1) of section 1 of the Act of 1959*, has arisen in connection with the decision of an insurance officer, and has been determined, and an insurance officer certifies that that determination is the sole ground of the decision, no appeal shall lie without leave of the chairman of the local tribunal.

(2) An appeal against a decision of an insurance officer shall be brought by giving notice of appeal within twenty-one days after the date of that decision or within such further time as the chairman of the local tribunal may for good cause allow.

(3) A notice of appeal shall be given in writing at an office of the Ministry and shall contain a statement of the grounds upon which the appeal is made.

THIRD SCHEDULE

Regulation 6

CONTAINING REGULATION 18 OF THE PRINCIPAL REGULATIONS AS AMENDED*

Review of decisions of insurance officer, local tribunal or Umpire

18.—(1) Any decision under this Part of these regulations of an insurance officer, a local tribunal or the Umpire may be reviewed at any time by an insurance officer, or on a reference from an insurance officer, by a local tribunal, if—

- (a) he or they is or are satisfied, but not without fresh evidence in the case of a decision of the Umpire, that the decision was given in ignorance of, or was based on a mistake as to, some material fact; or
- (b) there has been any relevant change of circumstances since the decision was given; or
- (c) the decision was based on the decision of any question mentioned in paragraph (1) of regulation 2 or in sub-section (2) of section 40 of the Act, and the decision of that question is revised in accordance with the provisions of regulation 5 or in accordance with the provisions of *the regulations made by virtue of sub-section (1) of section 1 of the Act of 1959*, as the case may be.

(2) A question may be raised with a view to such a review by means of an application in writing to an insurance officer, stating the grounds of the application.

(3) On receipt of any such application, the insurance officer shall proceed to deal with or refer any question arising thereon in accordance with the provisions of this Part of these regulations.

(4) Any decision given on a review under this regulation, and any refusal to review a decision under this regulation, shall be subject to appeal in like manner as an original decision, and the provisions of this Part of these regulations shall, subject to the necessary modifications, apply in relation to any decision given on a review as they apply to the original decision of a question.

FOURTH SCHEDULE

Regulation 7

(Note.—The following provisions are by regulation 7(2) incorporated in the principal regulations as the Schedule thereto.)

"SCHEDULE

Regulation 27

Decisions under the repealed Acts or the Transitional Regulations	Person by whom decisions to be treated as given
<p>1. (a) A decision of the Ministry under section 161 of the Health Insurance Act, section 17 of the Contributory Pensions Act, section 4, section 5 or section 78 of the Unemployment Insurance Act or regulation 2(1)(a) of the Transitional Regulations.</p> <p>(b) A decision of a referee or of the Ministry under the repealed Acts or the Transitional Regulations on any question which would have fallen to be decided by the Ministry had it arisen after the date on which Part V of these regulations came into operation.</p> <p>2. A decision of an insurance officer under the Unemployment Insurance Acts or the Transitional Regulations, or of the corresponding person authorised under the provisions of a special scheme under the Unemployment Insurance Acts to determine claims in the first instance.</p> <p>3. A decision of a court of referees under the Unemployment Insurance Acts or the National Insurance (Increase of Contributory Pensions) Regulations (Northern Ireland), 1946(a), or of a local tribunal under the Transitional Regulations, or of the corresponding tribunal authorised under the provisions of a special scheme under the Unemployment Insurance Acts to determine claims on appeal.</p> <p>4. A decision (not being such a decision as is specified in paragraph 1(b) of this column) of a referee under the Health Insurance Acts or the Transitional Regulations, or a decision of the Umpire under the Contributory Pensions Acts, the Unemployment Insurance Acts or the National Insurance (Increase of Contributory Pensions) Regulations (Northern Ireland), 1946, or of the Umpire under the Transitional Regulations.</p> <p>5. Any other decision under the repealed Acts or the Transitional Regulations which under the provisions of those Acts or those Regulations, as the case may be, might have been the subject of revision or review.</p>	<p>1. (a) and (b) The Ministry.</p> <p>2. An insurance officer.</p> <p>3. A local tribunal.</p> <p>4. The Umpire.</p> <p>5. An insurance officer."</p>

(a) S.R. & O. (N.I.) 1946, No. 176 as amended by S.R. & O. (N.I.) 1947, No. 27 and S.R. & O. (N.I.) 1947, No. 76,