

1962. No. 27

[C]

## FAMILY ALLOWANCES, NATIONAL INSURANCE AND INDUSTRIAL INJURIES

### Consequential Provisions

REGULATIONS, DATED 23RD FEBRUARY, 1962, 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 ACTS (NORTHERN IRELAND), 1946 TO 1962, THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACTS (NORTHERN IRELAND), 1946 TO 1962, AND THE FAMILY ALLOWANCES AND NATIONAL INSURANCE ACT (NORTHERN IRELAND), 1959.

The National Insurance Joint Authority, in exercise of powers conferred by sections 20(3) and 29(1) of the National Insurance Act (Northern Ireland), 1946(a), and the Ministry of Labour and National Insurance, in exercise of powers conferred by sections 5(1)(a)(iii), 7(1)(b), 40 and 45 of that Act and sections 33, 52(1) and (3) and 81 of the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946(b), section 5 of the National Insurance (Industrial Injuries) Act (Northern Ireland), 1953(c), section 1(2) of the National Insurance Act (Northern Ireland), 1957(d) (as extended by section 15(3) of, and paragraph 12(1)(b) of the Third Schedule to, the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962(e)), section 1 of the Family Allowances and National Insurance Act (Northern Ireland), 1959(f), and sections 5(5) and 9 of, and paragraphs 1(3) and 2 of the Second Schedule and paragraphs 4, 5(2), 10 and 11(2) of the Third Schedule to, the said Act of 1962, in each case in conjunction with the Ministry of Finance so far as relates to matters with regard to which the Ministry of Finance has so directed, and in exercise of all other powers enabling them in that behalf, hereby make the following regulations:

#### PART I

#### GENERAL

#### *Citation, commencement and interpretation*

1.—(1) These regulations may be cited as the Family Allowances, National Insurance and Industrial Injuries (Consequential Provisions) Regulations (Northern Ireland), 1962, and shall come into operation on the 26th February, 1962.

(2) In these regulations—

“the Act” means the National Insurance Act (Northern Ireland), 1946;

“the Industrial Injuries Act” means the National Insurance (Industrial Injuries) Act (Northern Ireland), 1946;

“the Act of 1953” means the National Insurance (Industrial Injuries) Act (Northern Ireland), 1953;

“the Act of 1962” means the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962;

(a) 1946. c. 23.

(b) 1946. c. 21.

(c) 1953. c. 30.

(d) 1957. c. 7.

(e) 1962. c. 9.

(f) 1959. c. 7.

- “the Contributions Regulations” means the National Insurance (Contributions) Regulations (Northern Ireland), 1948(a);
- “the National Insurance Determination Regulations” means the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland), 1948(b);
- “the General Benefit Regulations” means the National Insurance (General Benefit) Regulations (Northern Ireland), 1948(c);
- “the Overlapping Benefits Regulations” means the National Insurance (Overlapping Benefits) Regulations (Northern Ireland), 1961(d);
- “the Widow’s Benefit and Retirement Pensions Regulations” means the National Insurance (Widow’s Benefit and Retirement Pensions) Regulations (Northern Ireland), 1948(e);
- “the Industrial Injuries Benefit Regulations” means the National Insurance (Industrial Injuries) (Benefit) Regulations (Northern Ireland), 1948(f);
- “the Claims and Payments Regulations” means the National Insurance (Industrial Injuries) (Claims and Payments) Regulations (Northern Ireland), 1948(g);
- “the Industrial Injuries Determination Regulations” means the National Insurance (Industrial Injuries) (Determination of Claims and Questions) Regulations (Northern Ireland), 1948(h);
- “the Family Allowances Regulations” means the Family Allowances (Determination of Claims and Questions) Regulations (Northern Ireland), 1959(i);

and other expressions have the same meanings as in the Act, the Industrial Injuries Act or the Family Allowances Act (Northern Ireland), 1945, as the case may require.

## PART II

### SET-OFF OF BENEFIT

#### *Set-off of benefit against earlier payment of dependency benefit*

2.—(1) Where payment of benefit is made for any period to one person in respect of another as being a child of the family, or the wife or husband, or an adult dependant, of the first-mentioned person and under regulations made under section 29 of the Act or section 30 of the Industrial Injuries Act (which

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- (a) S.R. & O. (N.I.) 1948, No. 217 as amended by S.R. & O. (N.I.) 1949, No. 149; 1950, No. 67; 1951, No. 38; 1952, No. 139; 1953, No. 69; No. 123; No. 157; 1954, No. 35; 1955, No. 101; 1956, No. 212; 1957, No. 173; No. 225; No. 268; 1959, No. 43; No. 109; No. 173; 1960, No. 76; No. 144 and No. 194.
- (b) S.R. & O. (N.I.) 1948, No. 185 as amended by S.R. & O. (N.I.) 1949, No. 142; 1951, No. 157; 1953, No. 123; 1956, No. 8; 1957, No. 169; No. 225; No. 267; 1958, No. 159; 1959, No. 108; No. 138; 1960, No. 194; 1961, No. 77; No. 78 and No. 86.
- (c) S.R. & O. (N.I.) 1948, No. 208 as amended by S.R. & O. (N.I.) 1949, No. 195; No. 196; 1957, No. 161; No. 225; No. 239; 1960, No. 143; No. 194; 1961, No. 3 and No. 77.
- (d) S.R. & O. (N.I.) 1961, No. 180.
- (e) S.R. & O. (N.I.) 1948, No. 246 as amended by S.R. & O. (N.I.) 1951, No. 154; 1952, No. 137; 1953, No. 108; 1955, No. 7; 1956, No. 138; 1957, No. 160; No. 178; No. 241; No. 269; 1960, No. 194; 1961, No. 3; No. 77 and No. 86.
- (f) S.R. & O. (N.I.) 1948, No. 203 as amended by S.R. & O. (N.I.) 1949, No. 73; 1951, No. 102; No. 182; 1952, No. 140; No. 199; 1953, No. 132; No. 135; 1955, No. 15; No. 164; 1956, No. 139; 1957, No. 131; No. 243; No. 264; 1958, No. 114; 1959, No. 93; 1960, No. 25; No. 140; 1961, No. 2 and No. 79.
- (g) S.R. & O. (N.I.) 1948, No. 204 as amended by S.R. & O. (N.I.) 1951, No. 101; 1952, No. 118; 1953, No. 132 and 1960, No. 209.
- (h) S.R. & O. (N.I.) 1948, No. 201 as amended by S.R. & O. (N.I.) 1953, No. 132; 1954, No. 42; 1959, No. 143; 1961, No. 79 and No. 80.
- (i) S.R. & O. (N.I.) 1959, No. 139 as amended by S.R. & O. (N.I.) 1961, No. 77.

sections enable regulations to be made relating to overlapping benefits) that benefit is not payable, in whole or in part, for that period by reason of a decision, subsequent to the said payment, either—

(a) that the said other person is himself entitled to benefit for that period;  
or

(b) that a third person is entitled to benefit for that period in respect of the said other person in priority to the first-mentioned person;

the benefit paid prior to the said decision shall be treated as properly paid for that period and any arrears of benefit payable for that period by reason of the said decision shall be reduced or withheld to the extent to which such whole or part of the benefit paid prior to the said decision is so treated as having been properly paid.

(2) For the purposes of paragraph (1), “benefit” means both benefit under the Act and benefit under the Industrial Injuries Act.

### PART III

#### NATIONAL INSURANCE

##### *Amendment of the Contributions Regulations*

3. In regulations 13, 14 and 14A of the Contributions Regulations(a) (which make provision for the grant of certificates of exception to insured persons whose income does not exceed one hundred and fifty-six pounds a year), for the words “one hundred and fifty-six pounds” wherever they occur, there shall be substituted the words “two hundred and eight pounds”.

4.—(1) Regulation 25 of the Contributions Regulations(b) (which provides for the treatment of late paid contributions for the purpose of increasing, under sub-section (4) of section 19 of the Act, a retirement pension by reference to contributions paid by a person for a period after he has attained pensionable age), shall be amended in accordance with the provisions of paragraph (2) and shall accordingly have effect as set out in the First Schedule.

(2) In the said regulation 25, after the words “of pensionable age)”, there shall be inserted the words “and for the purpose of section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962 (which section relates to women’s retirement pensions)”.

##### *Amendment of the General Benefit Regulations*

5. In the proviso to paragraph (8) of regulation 8 of the General Benefit Regulations—

(a) immediately after the words “shall apply”, there shall be inserted the words “without prejudice to the operation of regulation 2 of the Family Allowances, National Insurance and Industrial Injuries (Consequential Provisions) Regulations (Northern Ireland), 1962, (which provides for the set-off of benefit against earlier payment of dependency benefit) and”;

(b) immediately after the words “were not fulfilled”, there shall be inserted the words “and in so far as set-off under the said regulation 2 against payment of such benefit is not made”; and

(c) in paragraph (a) for the words “any person to whom such a payment has been made has not acted in good faith in all respects as to the

(a) See S.R. & O. (N.I.) 1955, No. 101 and 1959, No. 173.

(b) See S.R. & O. (N.I.) 1949, No. 149.

obtaining and receipt thereof”, there shall be substituted the words “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”;

and the said paragraph (8) shall accordingly have effect as set out in the Second Schedule.

#### *Amendment of the Overlapping Benefits Regulations*

6.—(1) Paragraph (4) of Column 1 of the First Schedule to the Overlapping Benefits Regulations (which paragraph shows benefit under the Act which, if it is payable to a woman otherwise than in respect of another person who is a child or an adult dependant, is not required to be adjusted by reference to any benefit which is shown in the corresponding paragraph of Column 2 of the said Schedule and is so payable) shall be amended in accordance with the following provisions of this regulation and accordingly that paragraph and the corresponding paragraph of Column 2 of the said Schedule shall have effect as set out in the Third Schedule.

(2) In paragraph (4) of the said Column 1, for all the words after the words “retirement pension”, there shall be substituted the following words:

“(a) in so far as it consists of graduated retirement benefit; or

(b) in so far as it does not consist of graduated retirement benefit or of an increase under section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962, if the pension, or that part of it which does not so consist, is not payable wholly or in part by virtue of a husband’s contributions or insurance.”

#### *Amendment of the Widow’s Benefit and Retirement Pensions Regulations*

7.—(1) Regulation 4 of the Widow’s Benefit and Retirement Pensions Regulations(a) (which prescribes special conditions which, in the case of a woman marrying after pensionable age, apply in relation to a retirement pension by virtue of her husband’s insurance) shall be amended in accordance with the following provisions of this regulation and shall accordingly have effect as set out in the Fourth Schedule.

(2) At the beginning of paragraph (2) of the said regulation 4, before the words “In the application”, there shall be added the words “Subject to the provisions of paragraph (3).”

(3) In the said paragraph (2)—

(a) after the words “section 19 of the Act”, there shall be inserted the words “or sub-section (1) of section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962”; and

(b) for the words “sub-section relates”, there shall be substituted the words “sub-sections relate”.

(4) At the end of the said paragraph (2), after the words “shall not be taken into account,” there shall be added the words “except for the purposes of paragraph (b) of the said sub-section (1).”

(5) After the said paragraph (2), there shall be added the following paragraphs:

“(3) Where contributions paid by a husband for a period beginning on or after the coming into force of the said section 5 would, but for the

(a) See S.R. & O. (N.I.) 1948, No. 246 and 1961, No. 86.

provisions of paragraph (2), be taken into account for the purpose of the application of the said sub-section (4) to a retirement pension payable to his widow by virtue of his insurance, those contributions shall, notwithstanding those provisions, be taken into account for that purpose (together with any contributions to be taken into account in accordance with paragraph (4)) but not so as to increase the weekly rate of that retirement pension by an amount exceeding the amount by which it would have been increased under paragraph (b) of the said sub-section (1) if that paragraph had applied in respect of those contributions.

(4) Any contributions paid by a husband for a period beginning on or after the coming into force of the said section 5 and after the termination of the contribution weeks referred to in paragraph (2) shall, if their number is not twelve or a multiple of twelve, be taken into account under paragraph (3) to the following extent,—

- (a) if their number is less than twelve, all those contributions, or
- (b) in any other case, so many of them as exceed twelve or a multiple of twelve.”.

8. After regulation 4 of the Widow's Benefit and Retirement Pensions Regulations, there shall be inserted the following regulation :

*“Special provisions applying to women who remarry when over pensionable age*

4A. Where a man dies leaving a widow who remarries after attaining pensionable age, the following provisions shall apply :

(1) Sub-section (1) of section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962, shall apply in relation to her as if she had remained his widow throughout any period after her remarriage for which she is entitled to a retirement pension by virtue of his insurance.

(2) Subject to the provisions of paragraph (3), paragraph (b) of the said sub-section (1) shall apply in relation to her as if, throughout any period during the subsistence of that remarriage for which she is entitled to a retirement pension by virtue of her insurance, she had remained the widow of the man whose widow she would have remained but for that remarriage.

(3) If, having remarried after attaining pensionable age, she becomes a widow for a second or subsequent time, the said paragraph (b) shall, if she so elects, apply in relation to her as if, throughout any period during which she is a widow and is entitled to a retirement pension by virtue of her insurance, she were not the widow of her last husband but had remained the widow of any man whose widow she would have remained but for any remarriage after she had attained pensionable age; and, if she had so elected, the said paragraph (b) shall continue to apply in relation to her as if she had remained the widow of that man throughout any period, occurring during the subsistence of any remarriage next following the period of her last widowhood, for which she is so entitled to a retirement pension.”.

9.—(1) Paragraph (1) of regulation 10 of the Widow's Benefit and Retirement Pensions Regulations(a) (which paragraph makes provision as to the contributions to be taken into account for the purpose of increasing a retirement

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(a) See S.R. & O. (N.I.) 1957, No. 160.

pension by reference to contributions paid by a person who has made an election under regulation 8 of those regulations), shall be amended in accordance with the provisions of paragraph (2) and shall accordingly have effect as set out in the Fifth Schedule.

(2) In the said paragraph (1),—

- (a) after the words “section 19 of the Act”, there shall be inserted the words “or sub-section (1) of section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962”;
- (b) for the word “relates”, there shall be substituted the words “sub-sections relate”; and
- (c) for the word “to” where it occurs immediately before the words “a person who has made an election”, there shall be substituted the words “in relation to contributions paid by”.

**10.**—(1) Paragraph (1) of regulation 12 of the Widow’s Benefit and Retirement Pensions Regulations<sup>(a)</sup> (which paragraph provides for the disregarding of certain contributions for the purpose of increasing, under sub-section (4) of section 19 of the Act, a retirement pension by reference to contributions paid by a person for a period after he has attained pensionable age), shall be amended in accordance with the provisions of paragraph (2) and shall accordingly have effect as set out in the Sixth Schedule.

(2) In the said paragraph (1), after the words “section 19 of the Act”, there shall be inserted the words “and sub-section (2) of section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962”.

*Revocation of regulations 20(2) and 21 of the National Insurance Determination Regulations*

**11.** Paragraph (2) of regulation 20, and regulation 21 of the National Insurance Determination Regulations are hereby revoked.

**PART IV**

**INDUSTRIAL INJURIES**

*Provisions applicable when disqualification for benefit by reason of cohabitation comes to an end*

**12.**—(1) The following regulation shall be inserted in the Industrial Injuries Benefit Regulations after regulation 12 thereof:

*“Widows to be treated as entitled to a pension for the purposes of right to a remarriage gratuity*

**12A.** A widow who would be entitled to a pension under section 19 of the Act immediately before her remarriage but for the operation of sub-section (2) of section 4 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962 (which sub-section provides among other things that a pension under section 19 of the Act shall not be payable to a woman while she is cohabiting with a man not her husband) shall be treated as if she were entitled thereto for the purposes of a right to a gratuity under the said section 19 on her remarriage.”

(2) Where on an application for review it is decided that a woman is no longer disqualified for the receipt of death benefit by reason of her cohabiting with a man not her husband, that benefit shall, notwithstanding anything in the Claims and Payments Regulations, be payable as from the date on which

(a) See S.R. & O. (N.I.) 1957, No. 160.

the application was made or from such earlier date (not being earlier than six months before the application was made) as the person or tribunal determining the review may consider reasonable in the circumstances:

Provided that no benefit shall be payable for any period before the date of the coming into force of sub-section (2) of section 4 of the Act of 1962, or the date on which the cohabitation ceased, whichever is the later.

*Amendment of regulation 12A of the Claims and Payments Regulations*

13. For the proviso to paragraph (3) of regulation 12A of the Claims and Payments Regulations(a) (which regulation contains special provisions for injury benefit) there shall be substituted the following proviso:

“Provided that—

- (i) this paragraph shall apply without prejudice to the operation of regulation 2 of the Family Allowances, National Insurance and Industrial Injuries (Consequential Provisions) Regulations (Northern Ireland), 1962 (which regulation provides for the set-off of benefit against earlier payment of dependency benefit); and
- (ii) in any case in which the conditions for the receipt of the benefit were not fulfilled, and in so far as set-off under the said regulation 2 against payment of such benefit is not made, the person to whom any sum by way of such benefit has been paid shall be liable to repay that sum to the Northern Ireland Industrial Injuries Fund if it is shown to the satisfaction of an insurance officer, a local appeal tribunal or the Commissioner, as the case may be, that in the obtaining and receipt of that sum that person, or any person acting for him, has not throughout used due care and diligence to avoid overpayment.”

*Provision added to the Claims and Payments Regulations*

14.—(1) The following regulation shall be inserted in the Claims and Payments Regulations after regulation 16 thereof:

*“Suspension of payment of benefit pending appeals or references*

16A.—(1) So much of a pension or of an allowance (other than injury benefit) or of an increase of disablement benefit as is awarded in respect of a period before the date of the award shall not be payable until after the expiration of a period of twenty-one days from that date, and if before the expiration of that period an appeal from the award or from a decision on which the award was based is brought, until after the decision on that appeal is given; and a gratuity or any part thereof shall not be payable until after the expiration of the time limited for an appeal from the award thereof or from a decision on which the award was based, and where any such appeal is brought, until after the decision on that appeal is given:

Provided that—

- (i) this paragraph shall not apply to an award made by an insurance officer of disablement benefit (including any increase thereof) based upon the decision of a medical appeal tribunal or of death benefit (other than a gratuity), or to any award of benefit made by the Commissioner;
- (ii) during the period intervening between the award of a gratuity under section 22 or 23 of, or the Fourth Schedule to, the Act and the date when in accordance with the foregoing provisions of this paragraph such gratuity becomes payable, there shall be paid to the beneficiary

(a) See reg. 4 of S.R. & O. (N.I.) 1952, No. 118.

on account of such gratuity weekly payments at a rate not exceeding the weekly rate of the contribution which the deceased at his death was, or would but for the relevant accident have been, making towards the maintenance of the beneficiary;

(iii) payment of benefit shall not be suspended under the provisions of this paragraph if in any case or class of cases the Ministry so directs.

(2) For the purposes of paragraph (1), the expression 'appeal' shall be construed as including a reference of the decision of a medical board to a 'medical appeal tribunal.'

(2) Paragraph (5) of regulation 16 of the Claims and Payments Regulations (which paragraph relates to the suspension of payment of gratuities pending appeal) is hereby revoked.

*Regulation substituted for regulation 28 of the Industrial Injuries Determination Regulations*

15. For regulation 28 of the Industrial Injuries Determination Regulations (which regulation relates to set-off of payment on account of one benefit against other benefit awarded on review or appeal) there shall be substituted the following regulation:

*"Adjustment of Benefit*

28.—(1) Subject to the provisions of paragraph (4), any sum on account of benefit which has been paid to any person in pursuance of a decision which is afterwards revised on a review or reversed or varied on an appeal shall be treated as paid on account of any benefit which it is decided is or was payable to him in respect of the same accident or disease and, except as is provided in paragraph (3), in respect of the same period (hereinafter referred to as 'the common period').

(2) For the purposes of paragraph (1)—

(a) a gratuity under section 12 of the Act shall be treated as a periodical payment payable in respect of the period (hereinafter referred to as 'the gratuity period') taken into account by the relevant assessment of the degree of disablement (that period, where it is more than seven years or is not limited by reference to a definite date, being deemed to be one of seven years); and

(i) to the extent to which a gratuity falls to be treated as paid on account of a pension or allowance (or a pension or allowance falls to be treated as paid on account of a gratuity), the gratuity shall be treated as payable at a weekly rate calculated by dividing by 364 an amount equal to the amount of the gratuity payable for a period limited by reference to the beneficiary's life in respect of the said assessment of the degree of disablement, fractions of a penny being disregarded; and

(ii) to the extent to which a gratuity falls to be treated as paid on account of another gratuity, so much of the first-mentioned gratuity shall be so treated as bears the same ratio to its total amount as does the common period to the gratuity period, fractions of a shilling being disregarded;

(b) a gratuity under section 22 or 23 of, or the Fourth Schedule to, the Act, shall be treated as a periodical payment payable in respect of the period of two years from the date of the deceased's death and at a weekly rate calculated by dividing the amount of the gratuity by 104.



(3) Where on a review a decision awarding a woman a gratuity under section 19 of the Act as on the termination of her widow's pension is reversed, any sum paid on account of that gratuity shall be treated as having been paid on account of any further benefit awarded to her under that section in respect of the same death.

(4) The foregoing provisions of this regulation shall not operate—

(a) so as to make a pension or allowance (other than arrears thereof) payable at less than half the appropriate weekly rate unless the person or tribunal awarding the pension or allowance is not satisfied that the beneficiary, and any person acting for him, has throughout used due care and diligence to avoid overpayment of the benefit which is to be treated as paid on account of such pension or allowance;

(b) so as to require any sum paid on account of benefit to be treated as paid on account of other benefit to the extent to which that sum exceeds the amount which is payable or treated as payable in respect of the common period, of the other benefit.”.

## PART V

### FAMILY ALLOWANCES

#### *Amendment of the Family Allowances Regulations*

**16.**—(1) In paragraph (2) of regulation 1 of the Family Allowances Regulations there shall be inserted immediately after the definition of “the Act of 1959” the following definition:

“the Act of 1962” means the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962;”.

(2) Paragraph (1) of regulation 6 of the Family Allowances Regulations is hereby revoked.

(3) In paragraph (2) of the said regulation 6 there shall be substituted—

(a) for the words “under the provisions of this regulation” the words “would have been receivable (if properly paid) by either the man or the wife and which under section 9 of the Act of 1962 (which provides for the recovery of sums found by a decision on review or appeal to have been wrongly paid)”;

(b) in sub-paragraph (a) for all the words following “repayment” the words “from the man if it is shown to the satisfaction of the insurance officer, the local tribunal or the Commissioner, as the case may be, that in relation to the obtaining and receipt of the sum in question he, or any person acting for him, did not throughout use due care and diligence to avoid overpayment”;

and that paragraph shall accordingly have effect as set out in the Seventh Schedule.

(4) In paragraph (3) of the said regulation 6 for the words “the foregoing paragraphs”, there shall be substituted the words “the foregoing paragraph or under section 9 of the Act of 1962”.

(5) In paragraph (4) of the said regulation 6 there shall be inserted immediately after the words “of this regulation” the words “or under section 9 of the Act of 1962”.

(6) In paragraph (1) of regulation 7 of the Family Allowances Regulations there shall be inserted immediately after the words “Subject to the provisions of these regulations” the words “and of section 9 of the Act of 1962”.

## PART VI

## TRANSITIONAL PROVISIONS

*Transitional provision for section 3(3) and (4) of the Act of 1962*

17.—(1) Where before the coming into force of sub-section (3) of section 3 of the Act of 1962 (which sub-section relates to increases of benefit for married women in respect of children), a married woman has been awarded in respect of a child a payment to which this regulation applies, then, for any period during which she would have continued without a break to be entitled to receive such a payment in respect of that child if the said sub-section had not come into force, she shall be treated as so entitled.

(2) This regulation applies to an increase of benefit in respect of a child under section 17 of the Industrial Injuries Act, and to a corresponding payment under regulations made under section 81 of that Act as extended by section 5 of the Act of 1953.

*Transitional provision for section 4(2) and (3) of the Act of 1962*

18. Where on a claim it is decided that a pension or allowance is payable to a woman by virtue of sub-paragraph (1) of paragraph 5 of the Third Schedule to the Act of 1962, that pension or allowance shall, notwithstanding anything in the Claims and Payments Regulations, be payable as from the date on which the claim was made or from such earlier date (not being earlier than six months before the claim was made) as the person or tribunal determining the claim may consider reasonable in the circumstances:

Provided that no such pension or allowance shall be payable for any period before the date of the coming into force of sub-section (2) of section 4 of the Act of 1962, or the date on which the cohabitation ceased, whichever is the later.

*Transitional provision for regulations 5 and 13*

19. Where a decision that a person was or was not liable to repay a payment by way of benefit which had been made by virtue of regulation 12A of the Claims and Payments Regulations or paragraph (8) of regulation 8 of the General Benefit Regulations (which regulation and paragraph provide for advance payment by way of benefit) was given before the date of the coming into force of these regulations, any appeal from or review of that decision determined on or after that date shall be determined in accordance with the provisions in force immediately before that date.

*Transitional provision for regulation 15*

20. Where before the date of the coming into force of these regulations a decision was given directing that any sum paid by way of benefit should be treated as paid on account of the benefit awarded by that decision, any appeal from that decision determined on or after that date shall be determined in accordance with the provisions in force immediately before that date.

Given under the Official Seal of the National Insurance Joint Authority  
this 23rd day of February, nineteen hundred and sixty-two.

(L.S.)

*D. J. Carter,*

Secretary.

Given under the Official Seal of the Ministry of Labour and National  
Insurance for Northern Ireland this 23rd day of February, nineteen  
hundred and sixty-two.

(L.S.)

*H. A. Lowry,*

Assistant Secretary.

Given under the Official Seal of the Ministry of Finance for Northern Ireland this 23rd day of February, nineteen hundred and sixty-two.

(L.S.)

W. W. Arthur,  
Assistant Secretary.

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FIRST SCHEDULE

Regulation 4

**Regulation 25 of the Contributions Regulations, as amended\***

Treatment for the purpose of increase of rate of retirement pension of late paid contributions

25. For the purpose of sub-section (4) of section 19 of the Act (which sub-section provides for the increase of the weekly rate of retirement pension where contributions are paid in respect of the period after the attainment of pensionable age) and for the purpose of section 5 of the *Family Allowances and National Insurance and Assistance, Act (Northern Ireland), 1962* (which section relates to women's retirement pensions), a contribution under the Act paid after the due date shall be treated—

- (a) if paid before the end of the period of one year beginning immediately after the end of the contribution year which includes the contribution week in respect of which it is payable—as paid on the due date;
- (b) if not paid before the end of the said period—as not paid.

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SECOND SCHEDULE

Regulation 5

**Paragraph (8) of Regulation 8 of the General Benefit Regulations, as amended\***

(8) Where, under arrangements made by the Ministry with the consent of the Ministry of Finance 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 2 of the Family Allowances, National Insurance and Industrial Injuries (Consequential Provisions) Regulations (Northern Ireland), 1962* (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 2 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.

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\*The words added or substituted by these regulations are shown in italics

## THIRD SCHEDULE

Regulation 6

**Paragraph (4) of Columns 1 and 2 of the First Schedule to the Overlapping Benefits Regulations, as amended\***

Column 1	Column 2
<p>(4) Unemployment benefit, sickness benefit or maternity allowance, or retirement pension—</p> <p>(a) <i>in so far as it consists of graduated retirement benefit; or</i></p> <p>(b) <i>in so far as it does not consist of graduated retirement benefit or of an increase under section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962, if the pension, or that part of it which does not so consist, is not payable wholly or in part by virtue of a husband's contributions or insurance.</i></p>	<p>(4) Death benefit by way of pension or allowance payable to a woman as the widow of the deceased under the Industrial Injuries Act, any Personal Injuries Scheme, any Service Pensions Instrument or any 1914-1918 War Injuries Scheme.</p>

## FOURTH SCHEDULE

Regulation 7

**Regulation 4 of the Widow's Benefit and Retirement Pensions Regulations, as amended\***

Special conditions in relation to retirement pensions by virtue of the husband's insurance in the case of women marrying after pensionable age

4.—(1) For the purposes of paragraph (iii) of sub-section (1) of section 20 of the Act (which paragraph relates to the prescribing of further conditions for entitlement to a retirement pension by virtue of the insurance of the husband in a case where a woman married the husband after attaining pensionable age), one of the following further conditions must be satisfied in the case of a woman to whom that paragraph is applicable, that is to say:

- (a) (i) that she and her husband have been married for not less than three years; or
- (ii) that, if the husband dies before the expiration of three years from the date of the marriage, she satisfies the requirements of paragraph (b) of sub-section (1) of section 16 of the Act, as amended by section 2 of and the Schedule to the Family Allowances and National Insurance Act (Northern Ireland), 1956(a) (which paragraph specifies the conditions of entitlement to widowed mother's allowance); or
- (b) that, immediately before the date of the marriage, she was or, but for any disqualification, or had sub-section (2) of section 2 of the Family Allowances and National Insurance Act (Northern Ireland), 1956 (which contains provisions as to national insurance benefits for widows) then been in force, would have been entitled to widow's benefit; or
- (c) that, immediately before the said date, she was entitled to a retirement pension, or would have been so entitled but for any disqualification, or but for her failure to satisfy the condition that she had retired from regular employment, or had sub-section (3) of section 2 of the Family Allowances and National Insurance Act (Northern Ireland), 1956, then been in force; or

(a) 1956. c. 8.

\*The words added or substituted by these regulations are shown in italics

(d) that, immediately before the said date, she was entitled, otherwise than under the Act, to any pension or allowance payable out of public funds and ceased to be so entitled by reason only of her marriage or remarriage:

Provided that the reference in sub-paragraph (c) to a retirement pension shall not include graduated retirement benefit which is payable by virtue of sub-section (7) of section 4 of the National Insurance Act (Northern Ireland), 1959(a) (which sub-section confers a right to graduated retirement benefit in certain cases of persons not entitled to a retirement pension).

(2) *Subject to the provisions of paragraph (3), in the application of sub-section (4) of section 19 of the Act or sub-section (1) of section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962 (which sub-sections relate to increase of rate of retirement pension for contributions paid after pensionable age) to a retirement pension payable to a woman to whom the provisions of the preceding paragraph of this regulation apply, contributions paid by the husband for any contribution weeks terminating before the earliest date on which the woman would have become entitled to a retirement pension by virtue of those provisions, if they had then both retired from regular employment, shall not be taken into account except for the purposes of paragraph (b) of the said sub-section (1).*

(3) *Where contributions paid by a husband for a period beginning on or after the coming into force of the said section 5 would, but for the provisions of paragraph (2), be taken into account for the purpose of the application of the said sub-section (4) to a retirement pension payable to his widow by virtue of his insurance, those contributions shall, notwithstanding those provisions, be taken into account for that purpose (together with any contributions to be taken into account in accordance with paragraph (4)) but not so as to increase the weekly rate of that retirement pension by an amount exceeding the amount by which it would have been increased under paragraph (b) of the said sub-section (1) if that paragraph had applied in respect of those contributions.*

(4) *Any contributions paid by a husband for a period beginning on or after the coming into force of the said section 5 and after the termination of the contribution weeks referred to in paragraph (2) shall, if their number is not twelve or a multiple of twelve, be taken into account under paragraph (3) to the following extent,—*

(a) *if their number is less than twelve, all those contributions, or*

(b) *in any other case, so many of them as exceed twelve or a multiple of twelve.*

#### FIFTH SCHEDULE

Regulation 9

#### **Paragraph (1) of Regulation 10 of the Widow's Benefit and Retirement Pensions Regulations, as amended\***

(1) *In the application of sub-section (4) of section 19 of the Act or sub-section (1) of section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962 (which sub-sections relate to increases in retirement pensions based on contributions paid as an employed or self-employed person after attaining pensionable age) in relation to contributions paid by a person who has made an election under regulation 8, contributions as an employed or self-employed person paid in respect of any period occurring after pensionable age and before as well as after his first retirement shall be taken into account.*

(a) 1959. c. 21.

\*The words added or substituted by these regulations are shown in italics

## SIXTH SCHEDULE

Regulation 10

**Paragraph (1) of Regulation 12 of the Widow's Benefit and Retirement Pensions Regulations, as amended\***

(1) Subject to the provisions of the next succeeding paragraph of this regulation a contribution paid by a woman over pensionable age in respect of any contribution week for the whole of which—

(a) she is entitled to and obtains payment of widow's benefit or a retirement pension by virtue of her husband's insurance (excepting widowed mother's allowance, so far as it is, or is deemed to consist of, dependency benefit within the meaning of paragraph (4) of regulation 1 of the National Insurance (Overlapping Benefits) Regulations (Northern Ireland), 1949); or

(b) her husband is entitled in respect of her to, and obtains payment of, an increase of the weekly rate of a retirement pension;

shall be disregarded for the purposes of sub-section (4) of section 19 of the Act and sub-section (2) of section 5 of the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962:

Provided that this regulation shall not apply to a woman who became entitled to a retirement pension by virtue of her husband's insurance before the date of coming into operation of this regulation.

## SEVENTH SCHEDULE

Regulation 16

**Paragraph (2) of Regulation 6 of the Family Allowances Regulations, as amended\***

(2) In the case of any sum paid as on account of an allowance for the family of a man and his wife living together which *would have been receivable (if properly paid) by either the man or the wife and which under section 9 of the Act of 1962 (which provides for the recovery of sums found by a decision on review or appeal to have been wrongly paid)—*

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

(b) the wife is required to repay, the man shall be liable to repay it as well as his wife.

## EXPLANATORY NOTE

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

These Regulations give effect to and supplement changes made by the Family Allowances and National Insurance and Assistance Act (Northern Ireland), 1962, concerning the circumstances in which sums, paid on account of benefit under the National Insurance Acts (Northern Ireland), 1946, or allowances under the Family Allowances Act (Northern Ireland), 1945, and afterwards found not to have been payable, may be recovered or treated as paid on account of benefit or allowances properly payable.

\*The words added or substituted by these regulations are shown in italics