

1971. No. 190

[C]

NATIONAL INSURANCE

General Benefit

REGULATIONS, DATED 28TH JUNE 1971, MADE BY THE NATIONAL INSURANCE JOINT AUTHORITY AND THE MINISTRY OF HEALTH AND SOCIAL SERVICES, IN CONJUNCTION WITH THE MINISTRY OF FINANCE, UNDER THE NATIONAL INSURANCE ACT (NORTHERN IRELAND) 1966.

The National Insurance Joint Authority, in exercise of powers conferred by sections 17(2), 42(2)(c), 48(1), 48(2), 50, 54(1), 54(2) and 106(1) of the National Insurance Act (Northern Ireland) 1966(a) and the Ministry of Health and Social Services, in exercise of powers conferred by sections 40(3), 54(3), 80(3), 80(4) and 106(3) of that Act, 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 being regulations subject to negative resolution in accordance with section 101(3) of the said Act:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the National Insurance (General Benefit) Regulations (Northern Ireland) 1971 and shall come into operation on 1st July 1971.

(2) In these regulations—

“the Act” means the National Insurance Act (Northern Ireland) 1966;

“the Industrial Injuries Act” means the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966(b);

“the Determination of Claims and Questions Regulations” means the National Insurance (Determination of Claims and Questions) Regulations (Northern Ireland) 1968(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, an insurance officer appointed under section 67 of the Act or a local tribunal constituted under section 76 of the Act or the Commissioner.

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 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 Ministry to be applicable in his case.

(a) 1966. c. 6 (N.I.).
(b) 1966. c. 9 (N.I.).

(c) S.R. & O. (N.I.) 1968, No. 172.

(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 17(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 17(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 42 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.

(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) in respect of any period before 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 42 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 in respect of which the weekly expenses incurred by the beneficiary 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 during 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 42(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 Northern Ireland, except in the case of sickness benefit or a retirement pension for any period during which she is residing with the beneficiary outside Northern Ireland and for which, by virtue of the provisions of regulation 5 of the National Insurance (Residence and Persons Abroad) Regulations (Northern Ireland) 1948(d), the beneficiary is not disqualified for receiving that benefit.

(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 the 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;

(d) See Sch. to S.R. & O. (N.I.) 1958, No. 109 and reg. 2 of S.R. & O. (N.I.) 1967, No. 129.

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 Ministry 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 condition contained in sub-paragraph (a).

(2) A notice and the designation contained therein given under the proviso to paragraph (1) 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 42(1) of the Act (increase of unemployment benefit, sickness benefit or retirement pension in respect of a wife) or of regulation 5(1)(c)—

- (a) a beneficiary shall not be deemed to satisfy the requirement contained in the said section 42(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 paragraph (a), 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 40(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 41(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 28 of the Act or a child's special allowance under section 37 of the Act or of an increase under any of the provisions of section 39 of the Act of any benefit for any period, and neither of the conditions set out in the said section 41(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 41(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 39 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 40(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 40(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 41(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 37(c)(e), 40(3), 41(1)(b) and 42(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 hereafter 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 paragraph (1), made in order to ascertain for the purpose of the said section 37(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 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

(e) See para. 4 of Sch. 4 to 1967. c. 22 (N.I.).

(Northern Ireland) 1966(f) 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), the children to whom this regulation refers are any children such as are mentioned in section 37(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 (Northern Ireland) 1966 as so included:

Provided that, for the purpose only of such determination as is referred to in paragraph (2), 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 Northern Ireland.

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 48(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 paragraph (3), "penalty" means a sentence of imprisonment, borstal training, or detention under section 73 of the Children and Young Persons Act (Northern Ireland) 1968(g), or an order for detention in a remand home or a training 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

(f) 1966. c. 8 (N.I.).

(g) 1968. c. 34 (N.I.).

criminal proceedings if it is a period during which he is liable to be detained in a hospital or similar institution in Northern Ireland 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 borstal institution, a remand home or a training 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 (Northern Ireland) 1961^(h) a direction restricting his discharge has been given under that Act 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) is satisfied, a certificate, given by or on behalf of the Prison Governor and furnished to the Ministry, 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 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 paragraph (5)—

- (a) “hospital or similar institution” means any place (not being a prison, a borstal institution, a remand home or a training 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⁽ⁱ⁾ applies or any naval court-martial, army court-martial or air force court-martial within the meaning of the Courts-Martial (Appeals) Act 1968^(j), or the Courts-Martial Appeal Court;
- (c) in relation to a person who is liable to be detained in Northern Ireland 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 (Northern Ireland) 1961 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 that Act.

(7) In this regulation—

- (a) “mental disorder” includes any mental disorder within the meaning of the Mental Health Act (Northern Ireland) 1961;
- (b) “training school” means a school approved under section 137 of the Children and Young Persons Act (Northern Ireland) 1968;
- (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.

^(h) 1961. c. 15.

^(j) 1968. c. 20.

⁽ⁱ⁾ 47 & 48 Vict. c. 31.

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 section 48(1) of the Act by virtue of the provisions of paragraph (2) or paragraph (3) of regulation 11; 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 for the purposes of paragraph (5) of regulation 11 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 48(1) by virtue of the provisions of that paragraph; and
- (ii) a guardian's allowance or any benefit to which sub-paragraph (b) 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 Ministry 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 Ministry and the National Insurance Fund for any sum so paid.

(2) Where, by virtue of paragraph (1), 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)(k) of the National Insurance (Claims and Payments) Regulations (Northern Ireland) 1961 (extinguishment of the right to sums payable by way of benefit which are not obtained within 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 80 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 (Northern Ireland) 1966(1), 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 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 21(1) of the Act (disqualification for unemployment benefit in respect of unemployment due to a trade dispute); and

(k) See reg. 2 of S.R. & O. (N.I.) 1969, No. 84,

(l) S.R. & O. (N.I.) 1966, No. 216.

(b) maternity benefit, widow's benefit, attendance allowance, 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 reason of section 20(1), or, as the case may be, section 20(3) 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 20(4) 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 20 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 (Northern Ireland) 1961(m):

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 20 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 20(4), the provisions of sub-paragraph (b) of paragraph (3) shall apply.
- (5) The provisions of paragraph (3) 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 (No. 2) Act (Northern Ireland) 1966(n) with the following modifications:

(m) S.R. & O. (N.I.) 1961, No. 222.

(n) 1966. c. 16 (N.I.).

- (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 20(4)(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 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 (No. 2) 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 sub-paragraph (a) of 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 (No. 2) 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, 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, 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 3(1) of the National Insurance and Industrial Injuries (Miscellaneous and Consequential Provisions) Regulations (Northern Ireland) 1966(o) (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 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 40(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 48(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 (Northern Ireland) 1946(p) 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 20(e) of Schedule 9 to the Act.

(3) For the purpose of determining whether the condition contained in section 47(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.

Revocations

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

Given under the Official Seal of the National Insurance Joint Authority
this 28th day of June 1971.

(L.S.)

D. G. Kelly,
Secretary.

Given under the Official Seal of the Ministry of Health and Social Services
for Northern Ireland this 28th day of June 1971.

(L.S.)

C. G. Oakes,
Assistant Secretary.

Given under the Official Seal of the Ministry of Finance for Northern
Ireland this 28th day of June 1971.

(L.S.)

C. F. Darling,
Assistant Secretary.

SCHEDULE 1

Regulation 14

Provisions for the purposes 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 9, para. 4(q) Schedule 9, para. 5(1) Schedule 9, para. 6	Widows' pensions for widows under pensionable age who on ceasing to be entitled to widow's benefit are incapable of self-support. Retirement pensions by virtue of husbands' insurance for widows entitled, immediately before attaining pensionable age, to widow's benefit in respect of their husbands' death. 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	26(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	27(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	27(3)	Widows' pensions for certain widows ceasing to be entitled to widowed mother's allowance.
	Widow's pension under para. 4 of Schedule 9	Schedule 9, para. 4	Widows' pensions for certain widows ceasing to be entitled to pension under para. 4 of Schedule 9 at a time when they are over the age of forty but under the age of sixty-five.

(q) See reg. 2(4) of S.R. & O. (N.I.) 1970, No. 295.

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)
The husband of a widow	Retirement pension	25(1)(b)	Widow's allowance for widow of husband who at the date of his death was not entitled to a retirement pension.
One of two spouses	Increase of retirement pension for a child	40(4)	Priority of title between husband and wife to increase of retirement pension for a child.

National Insurance
SCHEDULE 2
REGULATIONS REVOKED

Statutory Rules and Orders of Northern Ireland (1)	Citation (2)	Extent of Revocation (3)
S.R. & O. (N.I.) 1948, No. 208	The National Insurance (General Benefit) Regulations (Northern Ireland) 1948.	The whole regulations.
S.R. & O. (N.I.) 1949, No. 195	The National Insurance (General Benefit) Amendment Regulations (Northern Ireland) 1949.	The whole regulations.
S.R. & O. (N.I.) 1949, No. 196	The National Insurance (General Benefit) Amendment (No. 2) Regulations (Northern Ireland) 1949.	The whole regulations.
S.R. & O. (N.I.) 1957, No. 161	The National Insurance (General Benefit) Amendment Regulations (Northern Ireland) 1957.	The whole regulations.
S.R. & O. (N.I.) 1957, No. 225	The National Insurance (Child's Special Allowance) Regulations (Northern Ireland) 1957.	In the Schedule, the entries relating to the National Insurance (General Benefit) Regulations (Northern Ireland) 1948.
S.R. & O. (N.I.) 1957, No. 239	The National Insurance (General Benefit) Amendment (No. 2) Regulations (Northern Ireland) 1957.	The whole regulations.
S.R. & O. (N.I.) 1960, No. 143	The National Insurance (General Benefit) Amendment Regulations (Northern Ireland) 1960.	The whole regulations.

Statutory Rules and Orders of Northern Ireland (1)	Citation (2)	Extent of Revocation (3)
S.R. & O. (N.I.) 1960, No. 194	The National Insurance (Graduated Contributions and Non-participating Employments—Miscellaneous Provisions) Regulations (Northern Ireland) 1960.	In the Schedule, the entry relating to the National Insurance (General Benefit) Regulations (Northern Ireland) 1948.
S.R. & O. (N.I.) 1962, No. 27	The Family Allowances, National Insurance and Industrial Injuries (Consequential Provisions) Regulations (Northern Ireland) 1962.	Regulation 5; Schedule 2.
S.R. & O. (N.I.) 1962, No. 32	The National Insurance (General Benefit) Amendment Regulations (Northern Ireland) 1962.	The whole regulations.
S.R. & O. (N.I.) 1964, No. 211	The National Insurance (Widow's Benefit) (Consequential Provisions) Regulations (Northern Ireland) 1964.	Regulation 3.
S.R. & O. (N.I.) 1965, No. 11	The National Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations (Northern Ireland) 1965.	Item 9 in Schedule K.
S.R. & O. (N.I.) 1965, No. 239	The National Insurance (General Benefit) Amendment Regulations (Northern Ireland) 1965.	The whole regulations.

Statutory Rules and Orders of Northern Ireland (1)	Citation (2)	Extent of Revocation (3)
S.R. & O. (N.I.) 1966, No. 118	The National Insurance (General Benefit) Amendment Regulations (Northern Ireland) 1966.	The whole regulations.
S.R. & O. (N.I.) 1966, No. 219	The National Insurance (Miscellaneous Consequential Amendments and Transitional Provisions) Regulations (Northern Ireland) 1966.	In regulation 1(2) the definition of "the General Benefit Regulations"; regulation 3.
S.R. & O. (N.I.) 1967, No. 130	The National Insurance (Computation of Earnings) Regulations (Northern Ireland) 1967.	Regulation 2.
S.R. & O. (N.I.) 1968, No. 94	The Family Allowances, National Insurance and Industrial Injuries (Consequential) Regulations (Northern Ireland) 1968.	In regulation 1(2) the definition of "the General Benefit Regulations"; regulation 2.
S.R. & O. (N.I.) 1971, No. 139	The National Insurance (Attendance Allowance) Regulations (Northern Ireland) 1971.	Regulation 21.

EXPLANATORY NOTE

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

These regulations consolidate with amendments the National Insurance (General Benefit) Regulations (Northern Ireland) 1948 and subsequent amending regulations which are set out in Schedule 2 and are revoked by regulation 15.

Regulation 5 introduces a provision to secure that in determining whether a beneficiary is entitled to an increase of benefit for a non-resident housekeeper employed to look after his children the full cost to the beneficiary of employing the housekeeper is taken into account instead of the housekeeper's net earnings from the employment.

The other amendments are of a formal nature or consequential to changes of law in other fields.