

1968 No. 524

SOCIAL SECURITY

The Family Allowances, National Insurance and Industrial Injuries (Consequential) Regulations 1968

<i>Made</i> -	29th March 1968
<i>Laid before Parliament</i>	4th April 1968
<i>Coming into Operation</i>	8th April 1968

The Minister of Social Security, acting in conjunction with the Treasury, in exercise of the powers conferred by the provisions set out in column 1 of the Schedule to these regulations, and the National Insurance Joint Authority and the Industrial Injuries Joint Authority in exercise of the powers respectively conferred by the provisions set out in columns 2 and 3 of that Schedule, in each case in consequence of the Family Allowances and National Insurance Act 1967(a) and 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) Regulations 1968, and shall come into operation on 8th April 1968.

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

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

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

“the 1967 Act” means the Family Allowances and National Insurance Act 1967;

“family allowance” means an allowance payable under the Family Allowances Act 1965(d);

and other expressions have the same meaning as in the Insurance Act, the Industrial Injuries Act or the Family Allowances Act 1965, as the case may require.

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

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

 (a) 1967 c. 90.

(b) 1965 c. 51.

(c) 1965 c. 52.

(d) 1965 c. 53.

(e) 1889 c. 63.

PART II

NATIONAL INSURANCE

Amendments of the National Insurance (General Benefit) Regulations

2.—(1) The National Insurance (General Benefit) Regulations 1948(a), as amended(b), (hereinafter in this regulation called “the General Benefit Regulations”), shall be further amended in accordance with the following provisions of this regulation.

(2) After regulation 5A of the General Benefit Regulations, there shall be inserted the following regulation:—

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

5B. For the purposes of section 41(3) of the National Insurance Act 1965 (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 said Act in relation to the benefit in question, being the amount of the increase for a third or additional qualifying child.”

(3) For paragraph (2) of regulation 5C of the General Benefit Regulations, there shall be substituted the following paragraph:—

“(2) Where, for the purposes of section 40 of the National Insurance Act 1965, a person has a family which includes children, one or more of whom is, or are, treated as included in his family only by virtue of the provisions of section 41(3) of that Act (which child or children are hereafter in this paragraph referred to as a “treated child” or “treated children”), and there is, or are, also another child or other children living with that person who is, or are, included or treated as included in his family otherwise than by virtue of the said section 41(3) (which child or children are hereafter in this paragraph referred to as the “said other child or children”), that person shall in relation to an increase of sickness benefit, unemployment benefit or retirement pension in respect of a treated child be deemed to be contributing to the cost of providing for that child for the purposes of section 42(1)(b) of that 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.”

(4) Regulation 5B of the General Benefit Regulations shall apply in relation to an increase of retirement pension with effect from 8th April 1968 and in relation to an increase of unemployment benefit or sickness benefit with effect from 10th April 1968.

Amendment of the National Insurance (Widows Benefit and Retirement Pensions) Regulations

3. For paragraph (1) of regulation 6 of the National Insurance (Widows Benefit and Retirement Pensions) Regulations 1948(c), as amended(d), there shall be substituted the following paragraph:—

(a) S.I. 1948/1278 (Rev. XVI, p. 179; 1948 I, p. 2626). (b) The relevant amending instruments are S.I. 1966/388, 1967/1228 (1966 I, p. 875; 1967 II, p. 3579).
 (c) S.I. 1948/1261 (Rev. XVI, p. 207; 1948 I, p. 2704). (d) The relevant amending instruments are S.I. 1963/394, 1965/40, 1967/1228 (1963 I, p. 424; 1965 I, p. 47; 1967 II, p. 3579).

“ Priority between a man and his wife to increase of retirement pension for a child

6.—(1) Where but for Section 41(4)(b) of the National Insurance Act 1965 a man and his wife would, for the same period, both be entitled to an increase under Section 40(1) of that Act in respect of the same child or, in respect of different children, to such an increase at the rate applicable to an only, elder or eldest child, or to such an increase at the rate applicable to a second child, the following provisions shall apply:—

(a) if and so long as the man and his wife are living together, the man shall, and his wife shall not, be entitled to the increase, or, as the case may be, to the increase at the rate applicable to an only, elder or eldest child or the increase at the rate applicable to a second child;

(b) if and so long as they are not living together such one of them shall, and such other of them shall not, be entitled to the increase or, as the case may be, to the increase at the rate applicable to an only, elder or eldest child or the increase at the rate applicable to a second child, as the Minister may in his discretion from time to time determine.”

PART III

INDUSTRIAL INJURIES

Amendments of the National Insurance (Industrial Injuries) (Benefit) Regulations

4.—(1) The National Insurance (Industrial Injuries) (Benefit) Regulations 1964(a), as amended(b), (hereinafter in this regulation called “the Benefit Regulations”) shall be further amended in accordance with the following provisions of this regulation:—

(2) In regulation 4(2)(b) of the Benefit Regulations (injury benefit rates for children of school age), for the figure £1 5s. 0d. there shall be substituted the figure £1 8s. 0d.

(3) After regulation 12 of the Benefit Regulations there shall be inserted the following regulation:—

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

13. For the purposes of section 17(3) of the National Insurance (Industrial Injuries) Act 1965 (treating certain children as included in a man’s family for the purpose of an increase of injury benefit or disablement pension) the prescribed rate shall be a rate equal to the amount for the time being specified in Schedule 3, paragraph 7, sub-paragraph (c) to the said Act, being the amount of the increase for an additional child of the beneficiary’s family after the second.”

(4) For paragraph (2) of regulation 14 of the Benefit Regulations (contribution towards cost of providing for child) there shall be substituted the following paragraph:—

“ (2) Where for the purposes of section 17(1) of the National Insurance (Industrial Injuries) Act 1965, 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 17(3) of that 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

(a) S.I. 1964/504 (1964 I, p. 833).

(b) The relevant amending instruments are S.I. 1966/389, 1967/1223, 1228 (1966 I, p. 876; 1967 II, pp. 3565, 3579).

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 17(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 injury benefit or disablement 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 17(4)(b) of that 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."

(5) For regulation 25 of the Benefit Regulations there shall be substituted the following regulation:—

" Priority of title to allowance or allowances under section 21

25. Where in respect of the same death each of two or more persons satisfies the conditions of section 21 of the Act for the receipt of—

- (a) an allowance in respect of the same child ; or
- (b) an allowance at the rate applicable to an only, elder or eldest child in respect of different children ; or
- (c) an allowance at the rate applicable to a second child in respect of different children ;

the person entitled to the allowance, or, as the case may be, the allowance at the rate applicable to an only, elder or eldest child or the allowance at the rate applicable to a second child, shall as between such persons be determined, subject to the provisions of Schedule 5, paragraph 1(c), of the Act (priority of title to such an allowance of a person who is entitled to death benefit as the widow or widower of the deceased), in accordance with the order of priority specified in Schedule 8 to these regulations".

PART IV

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

Persons not ordinarily resident in Great Britain

5.—(1) Notwithstanding the provisions of these or any other regulations, but subject to the provisions of this regulation, a person who is not ordinarily resident in Great Britain immediately before 9th April 1968 (in this regulation referred to as "the said date") shall, unless and until that person becomes ordinarily resident in Great Britain, be disqualified for receiving in respect of any child:—

- (a) in the case of a woman who immediately before the said date is a married woman and had not retired from regular employment, any additional retirement pension by virtue of her husband's insurance, if the husband before the said date had retired from regular employment and was not ordinarily resident in Great Britain ;
- (b) in the case of a woman who immediately before the said date is a widow, any additional retirement pension by virtue of her husband's insurance, if her husband had died before the said date ;

- (c) in any other case, any additional retirement pension (not being additional retirement pension to which either of the two foregoing subparagraphs apply) if that person had retired from regular employment before the said date:

Provided that the disqualification for the receipt of additional retirement pension contained in this sub-paragraph shall not apply to a woman in relation to a retirement pension by virtue of her husband's insurance, if that husband had not retired from regular employment before the said date and either—

- (i) he was her husband immediately before that date, or
 - (ii) she married him on or after that date ;
- (d) any additional widow's benefit, if her husband had died or retired before the said date ;
- (e) any additional child's special allowance, if her former husband had died before the said date.

(2) Notwithstanding as aforesaid, if immediately before the said date a person is not ordinarily resident in Great Britain but that person has, or would, but for the absence of any child from Great Britain, have in his family immediately before the said date a child in relation to whom the conditions for guardian's allowance specified in section 29 of the Insurance Act are satisfied, that person and any other person who would otherwise be entitled to any additional guardian's allowance in respect of that child shall be disqualified for receiving any additional guardian's allowance in respect of that child unless and until the child becomes (or is) included in the family of a person who is ordinarily resident in Great Britain.

(3) A widow who—

(a) is not ordinarily resident in Great Britain immediately before the said date, and was entitled to widow's benefit immediately before attaining pensionable age, or who would, but for any provision of the Insurance Act disqualifying her for the receipt of such benefit have been so entitled ; and

(b) is or becomes entitled to a retirement pension by virtue of her own insurance the right to which is calculated by taking into account under section 33 of the Insurance Act, her husband's contributions ;

shall be disqualified for receiving any additional retirement pension in respect of any child the right to which is so calculated unless and until she becomes ordinarily resident in Great Britain—

(i) if her husband died before the said date ; or

(ii) if before the said date he had retired from regular employment and was not ordinarily resident in Great Britain.

(4) The disqualification for the receipt of additional benefit contained in this regulation shall not apply to a person for any period during which he is in Great Britain.

(5) For the purposes of this regulation references to additional benefit of any description in respect of any child are to be construed as referring to additional benefit of that description in respect of that child under the Insurance Act by virtue (either directly or indirectly) of section 1(2) (modified rates of benefit) of the 1967 Act.

(6) In regulation 5 of the National Insurance (Increase of Benefit and Miscellaneous Provisions) Regulations 1967(a) (which contains provisions corresponding to the foregoing provisions of this regulation) there shall, as from the said date, be inserted, at the end of paragraph (1)(c), the following :—

“ Provided that the disqualification for the receipt of additional retirement pension contained in this sub-paragraph shall not apply to a woman in relation to a retirement pension by virtue of her husband’s insurance, if that husband had not retired from regular employment before the said date and either—

- (i) he was her husband immediately before that date, or
- (ii) she married him on or after that date.”

Continuation of previous rates of benefit

6.—(1) In this regulation—

“ benefit ” means a retirement pension, widow’s allowance, widowed mother’s allowance or child’s special allowance under the Insurance Act or an allowance under section 21 of the Industrial Injuries Act (death benefit in respect of children) ;

“ continuing beneficiary ” means a person who, being entitled to receive any benefit in respect of any child or children immediately before the qualifying date, continues without a break to be entitled to receive benefit in respect of that child or both or all those children (as the case may be) and does not become so entitled in respect of any other child or children ;

“ eldest child ” means a child in respect of whom a continuing beneficiary is entitled to benefit at a rate applicable to an only, elder or eldest child ;

“ old rate ” means a rate of benefit or of family allowance in force at the passing of the 1967 Act ;

“ payable ” means payable to the continuing beneficiary or to any other person and, in relation to a family allowance, includes an allowance which would be, or would have been, so payable if duly claimed ;

“ period ” means a continuous period commencing with the qualifying date ; and

“ qualifying date ”, in relation to a continuing beneficiary, means the earliest day on which any weekly rate of benefit to which he is then entitled is, or but for the provisions of this regulation would be, reduced by the operation of section 1 of the 1967 Act.

(2) For any period during which the aggregate weekly rate of—

- (a) the benefit in respect of children to which a continuing beneficiary would but for the provisions of this regulation be entitled, and
- (b) the family allowances payable in respect of the same children.

is less than it would have been if the old rates had continued in force, the reductions in benefit rates under section 1 of the 1967 Act shall be excluded in his case to the extent necessary to enable effect to be given to the following paragraph :

Provided that this paragraph shall not, save in such cases as the Minister in his discretion may permit, have effect in relation to a person who does not before 9th October 1968 give to the Minister notice in writing that he is or claims to be a person entitled to the continuation of an old rate of benefit.

(3) During any period during which the foregoing paragraph has effect in relation to a continuing beneficiary, the weekly rate of benefit to which he is entitled in respect of each child (other than an eldest child) successively according to age shall be such sum as—

- (a) does not exceed that which would have been applicable —
 - (i) if the old rates had continued in force, and

- (ii) if he had not become entitled in respect of that child (where he has so become) to any benefit of which immediately before the qualifying date the rate was higher than that of the benefit to which he was then entitled, but had instead continued to be entitled to the benefit to which he was then entitled ; and
- (b) suffices, so far as possible, to secure that the aggregate weekly rate of—
- (i) the benefit to which he is entitled in respect of that child and any older children, and
 - (ii) the benefit to which he would be entitled in respect of any children younger than that child if this regulation did not affect the rate thereof, and
 - (iii) the family allowances payable in respect of all the children in respect of whom he is entitled to benefit,
- is not less than the aggregate weekly rate of the benefit to which he would be entitled in respect of all those children and of the family allowances which would be payable in respect of them if the old rates had continued in force.

Effect of existing awards of family allowances

7. Where a family allowance previously awarded has not terminated by 9th April 1968, and the award does not provide for it to be paid as from that date at the rate provided for by the 1967 Act, it shall not become payable at that rate for any period before—

- (a) the expiry of any book of allowance orders for the payment of sums on account of that allowance which is current at that date ; or
- (b) 8th April 1969 if there is no such book ;

save in so far as sums on account thereof are made receivable before 9th October 1969.

Condition relating to payment of additional benefit under awards made before changes in rates take effect

8.—(1) Where an award of any benefit under the Insurance Act or the Industrial Injuries Act, the weekly rate of which is affected by the 1967 Act, has been made before the date when the change in the weekly rate takes effect and the award does not provide in accordance with sub-paragraph (2) of paragraph 3 of Schedule 3 to the 1967 Act for the benefit to be paid as from the date when the change in the weekly rate takes effect at the rate appropriate under or by virtue of that Act, paragraph 3 of Schedule 3 to the 1967 Act shall, if the period to which the award relates has not ended before the said date, have effect subject to the condition set out in the following paragraph.

(2) Notwithstanding the provisions of regulation 12 of the National Insurance (Claims and Payments) Regulations 1948(a), as amended(b), or regulation 20 of the National Insurance (Industrial Injuries) (Claims and Payments) Regulations 1964(c), as amended(d) (extinguishment of the right to sums payable by way of benefit), the right to any sum which, by virtue of the said paragraph 3 of Schedule 3, becomes payable under the award by way of additional benefit shall, as respects the period beginning with the said date and ending—

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- (a) S.I. 1948/1041 (Rev. XVI, p. 313; 1948 I, p. 2709). (b) The relevant amending instruments are S.I. 1952/1207, 1957/578, 1961/557 (1952 II, p. 2122; 1957 I, p. 1516; 1961 I, p. 1228). (c) S.I. 1964/73 (1964 I, p. 115).
- (d) There is no amendment which relates expressly to the subject matter of these regulations.

(a) in a case where a book of serial orders (as defined in regulation 1(2) of the said Regulations) for the payment of benefit to which the award relates has been issued to the beneficiary and is current on the said date, with the date of the expiration of that book ; or

(b) in any other case with the expiration of 12 months from the said date ;

be extinguished if payment thereof is not obtained within the period of 18 months (or such longer period as the Minister may determine in the circumstances of any particular case) from the said date.

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

(L.S.)

D. J. Carter,
Secretary,

National Insurance Joint Authority.

27th March 1968.

Given under the official seal of the Industrial Injuries Joint Authority.

(L.S.)

D. J. Carter,
Secretary,

Industrial Injuries Joint Authority.

27th March 1968.

Judith Hart,
Minister of Social Security.

27th March 1968.

E. Alan Fitch,
B. K. O'Malley,
Two of the Lords Commissioners
of Her Majesty's Treasury.

29th March 1968.

SCHEDULE

POWERS EXERCISED IN MAKING THESE REGULATIONS

Minister of Social Security (1)	National Insurance Joint Authority (2)	Industrial Injuries Joint Authority (3)
The National Insurance Act 1965, sections 41(3) and 49(1); the National Insurance (Industrial Injuries) Act 1965, section 17(3); the Family Allowances and National Insurance Act 1967, Schedule 3, paragraphs 2(1), 3(1) and 6.	The National Insurance Act 1965, sections 41(4) and 55(1).	The National Insurance (Industrial Injuries) Act 1965, sections 34(1), 78(2) and Schedule 5, paragraph 1(d).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations are made in consequence of the Family Allowances and National Insurance Act 1967 and in accordance with Schedule 3 paragraph 7 of that Act have not been referred to the National Insurance Advisory Committee or the Industrial Injuries Advisory Council.

Part I of the Regulations contains provisions relating to their interpretation ; Part II makes consequential amendments to provisions of the National Insurance (General Benefit) Regulations and the National Insurance (Widows Benefit and Retirement Pensions) Regulations relating to increases of certain benefits payable in respect of children ; Part III increases the rate of injury benefit payable to children of school age and makes amendments to the National Insurance (Industrial Injuries) (Benefit) Regulations corresponding with those made in Part II ; and Part IV contains miscellaneous and transitional provisions, in particular provisions relating to persons not ordinarily resident in Great Britain and to continuation of previous rates of benefit in special cases.