CHAPTER 26

An Act to provide for modifying the provisions of the National Insurance Act, 1946, under which persons are treated as having retired; to amend the conditions of entitlement to certain benefits payable out of the National Insurance Fund or the Industrial Injuries Fund; to provide for an additional description of benefit under the aforesaid Act in respect of a child; to amend the provisions of that Act as to contributions in respect of periods as an insured person under the age of sixteen; and for purposes connected with the matters aforesaid.

[6th June, 1957]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Re-entry into regular employment after retirement.

1.—(1) Regulations may provide that, in the case of a person of such description as may be prescribed who—

(*a*) has retired for the purposes of the National Insurance Act, 1946 (hereafter in this Act referred to as "the principal Act") from regular employment or has otherwise become entitled to a retirement pension but is, in the case of a woman, under the age of sixty-five or, in the case of a man, under the age of seventy; and

(*b*) elects, in such manner and in accordance with such conditions as may be prescribed, that the regulations shall apply in his case,

the principal Act shall have effect as if that person had not retired or become entitled as aforesaid:

Provided that, where a husband and wife have both become entitled to retirement pensions by virtue of the husband's insurance, the husband shall not be entitled to elect as aforesaid

without the consent of the wife, unless that consent is unreasonably withheld.

(2) Any such regulations may make such modifications of the principal Act or this Act in the application thereof in a case where a person elects as aforesaid as may appear to the Minister to be necessary or expedient, and may in particular provide for determining how contributions paid by that person, whether before or after that person's first retirement or, as the case may be, first becoming entitled to a retirement pension, are to be dealt with for the purposes of subsection (4) of section twenty of the principal Act.

Benefits for persons over pensionable age.

2.—(1) In relation to a woman who attains pensionable age on or after the date of commencement of this subsection and who, immediately before attaining that age, is entitled to widow's benefit—

(*a*) paragraph (*b*) of subsection (1) of section twenty-one of the principal Act (which provides for a woman to be entitled to a retirement pension by virtue of the insurance of a husband in respect of whose death she was immediately before attaining pensionable age entitled to widow's benefit) shall not apply;

(*b*) subsection (6) of the said section twenty-one (which provides that where a woman, immediately before attaining pensionable age, is a widow not entitled to widow's benefit, account may be taken of her husband's contributions for the purpose of her right to a retirement pension by virtue of her own insurance) shall have effect as if the words "not entitled to widow's benefit" were omitted;

(*c*) the following provisions of the principal Act, that is to say, paragraph (*c*) of subsection (2) of section seventeen (which limits the payment of a widow's pension to periods during which the widow is under pensionable age) and paragraph (*a*) of subsection (1) and paragraph (*a*) of subsection (4) of section eighteen (which paragraphs confer certain rights with respect to a widow's pension on a widow who is under pensionable age) shall have effect as if after the words "pensionable age" in each of those paragraphs there were inserted the words "or, being over pensionable age, has not retired from regular employment"; and

(*d*) regulations made by virtue of subsection (3) of section seventy-one of the principal Act (which relates to certain women over the age of fifty immediately before the appointed day for the purposes of that Act) shall not apply.

(2) The proviso to subsection (2) of section twenty-one of the principal Act (which provides that if a widow entitled to a

retirement pension by virtue of her late husband's insurance remarries, the pension shall not be payable for any subsequent period) shall not apply in relation to such a widow who remarries after the commencement of subsection (1) of this section.

(3) For subsections (1) to (3) of section twenty-six of the principal Act (which makes provision as to unemployment and sickness benefit for persons over pensionable age) there shall be substituted the following two subsections:—

"(1) Subject to the next following subsection, a person who is over pensionable age but has not retired from regular employment shall be entitled to unemployment or sickness benefit in respect of any day for which he would be so entitled if for the conditions specified in paragraphs (*a*) and (*b*) of subsection (1) of section eleven of this Act there were substituted a condition that on the day for which benefit is claimed he would be entitled to a retirement pension had he retired from regular employment on attaining pensionable age and made the necessary claim.

(2) Where unemployment or sickness benefit is payable by virtue of this section—

(*a*) the weekly rate thereof, apart from any increase by virtue of any provision of this Act, shall be that at which, apart from any such increase, the said retirement pension would have been payable;

(*b*) paragraphs (*a*) and (*b*) of subsection (2) of section twenty-four of this Act shall not apply in relation to the unemployment or sickness benefit; and

(*c*) if the beneficiary would have been entitled to the retirement pension only by virtue of section twenty-five of this Act, that section shall have effect in relation to an increase of the weekly rate of unemployment or sickness benefit as if he were entitled to that benefit only by virtue of that section and as if the relevant contribution conditions for that benefit were those for the retirement pension";

and consequently in subsection (4) of the said section twenty-six the words "(including the rate of any increase thereof)" shall cease to have effect:

Provided that where a person was in receipt of unemployment or sickness benefit by virtue of the said section twenty-six immediately before the commencement of this subsection, then, for so long as that person would have continued without a break to receive one or other of those benefits if this subsection had not been passed, he shall continue to receive that benefit at a weekly rate, including any increase by virtue of any provision of the principal Act, not less than that at which the benefit would have been payable if this subsection had not been passed.

(4) For paragraph (*b*) of subsection (2) of section twenty of the principal Act (which relates to the circumstances in which a

person may be treated as having retired from regular employment) there shall be substituted the following—

" (*b*) subject to the next following paragraph, a person shall not be treated as having retired from regular employment unless he has complied with the prescribed requirements as to notice of the date of his retirement and—

(i) where the date of retirement specified in the notice falls before the date when the notice is given, that person shall not be treated as having so retired earlier than on the date of commencement of the prescribed period before the giving of the notice;

(ii) where the date of retirement specified in the notice falls after the date when the notice is given, an award of a retirement pension as from the date of retirement so specified may be made before that date but shall be conditional on that person's having retired on or before that date."

Benefits in respect of adult dependants.

3.—(1) In subsection (1) of section twenty-four of the principal Act, as amended by section six of the National Insurance Act, 1951 (which provides for the weekly rate of certain benefits to be increased by a specified amount for any period during which the beneficiary is residing with or is wholly or mainly maintaining his wife and her weekly earnings do not exceed twenty or, in certain circumstances, forty shillings)—

(*a*) for the words " wholly or mainly maintaining " there shall be substituted the words " contributing at a weekly rate of not less than that amount to the maintenance of "; and

(*b*) for the words from " exceed " onwards there shall be substituted the words " exceed forty shillings ";

and the said section six is hereby repealed.

(2) Immediately after subsection (2) of the said section twenty-four (which by paragraph (*c*) thereof provides for an increase in the weekly rate of unemployment or sickness benefit for any period during which a female person other than a child has the care of a child of the beneficiary's family) there shall be inserted the following subsection:—

" (2A) The weekly rate of a retirement pension shall be increased by the amount set out as aforesaid for any period during which the requirements of paragraph (*c*) of subsection (2) of this section are satisfied in respect of the beneficiary:

Provided that this subsection shall not apply if the beneficiary—

(*a*) being a man, is entitled to an increase of the pension in respect of his wife under subsection (1) of this section; or

(*b*) is a man whose wife is entitled to a retirement pension by virtue of his insurance; or

(*c*) being a woman, is entitled to the pension by virtue of her husband's insurance."

(3) Paragraph (*a*) of subsection (3) of the said section twenty-four (which provides that in the case of a retirement pension the said section shall not apply where the beneficiary is a married man and his wife is over pensionable age) is hereby repealed.

(4) In subsection (1) of section thirty-four of the principal Act (which enables regulations to provide for determining the circumstances in which a person is or is not to be deemed to be wholly or mainly maintaining another person) after the word "maintaining" there shall be inserted the words "or to be contributing at any weekly rate to the maintenance of".

(5) The enactments specified in the Schedule to this Act shall have effect subject to the amendments so specified, being amendments corresponding to those made to the principal Act by paragraph (*a*) of subsection (1) or subsection (4) of this section.

Treatment of days as days of unemployment.

4.—(1) For the purposes of the principal Act, where a person is employed in any employed contributor's employment which has not been terminated, then, in any week, a day on which in the normal course that person would not work in that or any other employed contributor's employment shall not be treated as a day of unemployment unless each other day in that week (other than Sunday) on which in the normal course he would so work is a day of interruption of employment.

(2) Regulations may prescribe respective circumstances in which, for the purposes of the foregoing subsection—

(*a*) an employed contributor's employment which has not been terminated may be treated as if it had been terminated; or

(*b*) a day which falls during a period when a person's employment in an employed contributor's employment is suspended but does not fall to be treated as aforesaid and which, apart from the provisions of the regulations, would not fall to be treated as a day of interruption of employment may be treated as such a day.

(3) In subsection (1) of this section—

(*a*) the expression "week" means a period of seven days commencing with the midnight between Saturday and Sunday; and

(*b*) the expression "Sunday", in relation to a person in whose case regulations made under paragraph (*d*) of subsection (2) of section eleven of the principal Act have provided that some other day is for the time being

to be substituted for Sunday as a day which is not to be treated as a day of unemployment, means that other day.

Child's special allowance.

5.—(1) There shall be an additional description of benefit under the principal Act to be known as child's special allowance.

(2) Subject to the provisions of the principal Act and to subsection (4) of the next following section, a woman whose marriage has been terminated by divorce shall be entitled to child's special allowance if—

(*a*) the husband of that marriage is dead and satisfied the relevant contribution conditions; and

(*b*) she has a family which includes a child who at that husband's death was, or but for the fact that the child was not then in Great Britain would have been, either a child of her family or such a child of that husband's family as could have been treated under paragraph 3 of the Schedule to the Family Allowances Act, 1945, as a child of her family; and

(*c*) that husband had before his death been contributing at not less than the prescribed weekly rate to the cost of providing for that child.

(3) Subject as aforesaid, child's special allowance shall be payable for any period during which the beneficiary has a family which includes one or more children with respect to whom the conditions specified in paragraphs (*b*) and (*c*) of the last foregoing subsection are satisfied, and the weekly rate of the allowance shall be whichever of the following is the less, that is to say—

(*a*) the weekly rate of the amount or aggregate amount contributed as mentioned in the said paragraph (*c*) in respect of the child or children in question; or

(*b*) sixteen shillings and sixpence increased, if there are two or more such children, by eight shillings and sixpence in respect of each such child other than the elder or eldest:

Provided that the allowance shall not be payable for any period for which, by virtue of the proviso to subsection (2) of section seventeen of the principal Act, widow's benefit would not have been payable to that beneficiary.

(4) The contribution conditions for child's special allowance shall be those for the time being in force for widow's benefit; and any regulations under section twenty-five of the principal Act (which relates to the partial satisfaction of contribution conditions) shall apply to child's special allowance in like manner as they apply to widow's benefit, so, however, that where the beneficiary is entitled to the allowance solely by virtue of those regulations, the weekly rate of the allowance shall be the same as if the contribution conditions had been fully satisfied.

Benefits in respect of children.

6.—(1) In section nineteen of the principal Act (which provides among other conditions of entitlement to a guardian's allowance in respect of a child that the parents of the child are dead)—

(*a*) in the proviso to subsection (1) (which provides that regulations may modify the condition aforesaid in relation to certain cases) for the words " the child's parents or one of them cannot be traced " there shall be substituted the following—

" (iii) where one of the child's parents is dead and the person claiming the allowance shows that he was at the date of the death unaware of, and has failed after all reasonable efforts to discover, the whereabouts of the other parent " ;

(*b*) subsection (3) (which provides that in the said section nineteen the expression " parent " shall include a stepparent) shall cease to have effect.

(2) Subsection (2) of section twenty-three of the principal Act and subsection (2) of section seventeen of the National Insurance (Industrial Injuries) Act, 1946 (hereafter in this Act referred to as " the Industrial Injuries Act ") (which provide in relation to increases of certain benefits in respect of a child of the beneficiary's family that, where the beneficiary is a man, a child of the family of a woman residing with him shall in certain circumstances be treated as a child of his family) shall each be amended as follows, that is to say—

(*a*) the words " Where the beneficiary is a man " shall cease to have effect ;

(*b*) for the word " him " there shall be substituted the words " the beneficiary " ; and

(*c*) for the word " his " there shall be substituted the words " the beneficiary's " ;

and consequently there shall be added at the end of paragraph (*c*) of subsection (3) of the said section twenty-three the words " or, where the beneficiary is a woman who became entitled to the pension without having retired, the date when she so became entitled ".

(3) Without prejudice to the next following subsection, where a man is entitled to unemployment benefit, sickness benefit or a retirement pension under the principal Act or to injury benefit or a disablement pension under the Industrial Injuries Act, then, for the purposes of section twenty-three of the principal Act or, as the case may be, of section seventeen of the Industrial Injuries Act, there shall be treated as included in the beneficiary's family any child who, on the day for which the increase provided for by that section is claimed, though not so included, could have been treated under paragraph 3 of the Schedule to the Family

Allowances Act, 1945, as so included, or could have been treated under that paragraph as so included but for the fact that the beneficiary is contributing to the cost of providing for the child at a weekly rate which, though not less than the prescribed rate, is less than the minimum rate for the time being required for the purposes of subsection (2) of section three of the said Act of 1945.

(4) Where, apart from this subsection, a person is entitled to receive payment in respect of a child who is, or who falls to be treated for the purposes of the relevant provision hereinafter mentioned as, a child of that person's family of an amount—

(*a*) under section nineteen of the principal Act by way of guardian's allowance; or

(*b*) under section twenty-three of the principal Act by way of an increase of unemployment benefit, sickness benefit, a retirement pension or a widow's allowance; or

(*c*) under section eight of the National Insurance Act, 1953, by way of an increase of a maternity allowance; or

(*d*) under section five of this Act by way of child's special allowance; or

(*e*) under section seventeen of the Industrial Injuries Act by way of an increase of injury benefit or a disablement pension; or

(*f*) by way of death benefit under section twenty-one of the Industrial Injuries Act, otherwise than by virtue of the words added to subsection (1) of that section by paragraph 10 of the Schedule to the Family Allowances and National Insurance Act, 1956,

that amount shall not be payable unless one of the following conditions is satisfied, that is to say—

(i) that the child in question is living with the beneficiary; or

(ii) that contributions to the cost of providing for the child in question are being made at a weekly rate not less than that of the amount in question by the beneficiary or, where the beneficiary is one of spouses living together, by those spouses taken together, being, if an allowance under the Family Allowances Act, 1945, is payable in respect of the child as a child of the beneficiary's family, contributions over and above those required for the purposes of subsection (2) of section three of that Act or, as the case may be, for the purposes of the proviso to sub-paragraph (1) of paragraph 1 of the Schedule to that Act.

(5) Any question arising under paragraph (i) of the last foregoing subsection shall be determined in the manner provided by subsection (2) of section forty-three of the principal Act or, as the case may be, by paragraph (*b*) of subsection (1) of section thirty-six of the Industrial Injuries Act (which provide for the determination of certain questions in like manner as questions arising under the Family Allowances Act, 1945); and in paragraph (*c*) of the said subsection (2) as amended by paragraph 6 of the Schedule to the Family Allowances and National Insurance Act, 1956, in sub-paragraph (iii) of the said paragraph (*b*) as amended by paragraph 12 of that Schedule, and in the said paragraphs 6 and 12, the words from " or is " onwards shall cease to have effect.

(6) Subsection (1) of section thirty-four of the principal Act and subsection (1) of section thirty-five of the Industrial Injuries Act (which enable regulations to provide for determining the circumstances in which a person is or is not to be deemed to satisfy certain requirements) shall each be amended by adding at the end the words " or to be or have been contributing at any weekly rate to the cost of providing for a child ".

Amendments as to death grant.

7.—(1) For section twenty-two of the principal Act (which relates to death grant) there shall be substituted the following:—

" 22.—(1) Subject to the provisions of this Act, a death grant shall be payable in respect of the death of any person (hereafter in this section referred to as ' the deceased ') if the deceased either himself satisfied the relevant contribution conditions, or was at death the husband, wife, widower, widow, or a child of the family, of a person satisfying the said conditions, or a child who—

(*a*) had, immediately before the death of some other person satisfying the said conditions, been a child of the family of that other person; or

(*b*) was a posthumous son or daughter of a man satisfying the said conditions.

(2) With respect to cases where the deceased was at death a child but the requirements of the foregoing subsection are not satisfied, regulations may provide for death grant to be payable if the relevant contribution conditions were satisfied by such other person as may be prescribed.

(3) Where at his death the deceased was not a child but was under the age of eighteen years and would, if he had been under the age of sixteen years, have been a child by virtue of paragraph (*c*) of subsection (1) of section two of the Family Allowances Act, 1945, as amended by subsection (2)

of section one of the Family Allowances and National Insurance Act, 1956 (which relates to persons incapacitated by reason of illness or disability of mind or body), then, for the purposes of the foregoing provisions of this section, the deceased shall be treated as if he had been a child at his death.

(4) Regulations under paragraph (*b*) of subsection (3) of section forty-six of this Act may make provision with respect to claims for, and the payment of, death grant as if it were a benefit due to the deceased at his death and as if the reference in that paragraph to creditors included a reference to any person who gives an undertaking in writing to pay the whole or part of the deceased's funeral expenses.

(5) Except where regulations otherwise provide, a death grant shall not be payable in respect of a death occurring outside Great Britain."

(2) In subsection (4) of section fifty of the National Assistance Act, 1948, and in subsection (2) of section eighteen of the Children Act, 1948 (which provide for the recovery by local authorities of expenses incurred in the burial or cremation of dead persons), for the words from " and not reimbursed " onwards there shall in each case be substituted the words " less any amount received by the authority by way of death grant in respect of that death under section twenty-two of the National Insurance Act, 1946 "; and subsection (5) of the said section fifty is hereby repealed.

Contributions of insured persons under sixteen.

8.—(1) In section sixty-one of the principal Act (which makes provision in relation to any person who on the appointed day for the purposes of that Act was under the age of sixteen) for the words " the appointed day" there shall be substituted the words " his entry into insurance ".

(2) In paragraph (*b*) of the said section sixty-one (which provides for crediting contributions to such a person as aforesaid for periods after the beginning of the contribution year in which he attains the age of sixteen, being periods for which he would have been liable to pay contributions as a non-employed person but for paragraph (*a*) of that section)—

(*a*) for the words " after the beginning of the contribution year in which " there shall be substituted the word " before "; and

(*b*) at the end of the paragraph there shall be added the words " or, in the case of a period of absence from Great Britain, but for that paragraph and any regulations made under the last foregoing section ".

Regulations—miscellaneous and general.

9.—(1) Regulations may provide—

(*a*) for 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, to be treated for the purposes of section five and subsections (3) and (4) of section six of this Act, subsection (1) of section twenty-four of the principal Act and subsection (1) of section eighteen of the Industrial Injuries Act as such contributions, of such respective amounts equal in the aggregate to the said sum or sums, in respect of such persons, as may be determined in accordance with the regulations so as to secure as large a payment as possible by way of benefit in respect of dependants;

(*b*) that, in such cases and subject to such exceptions as may be prescribed, a contribution paid by a woman over pensionable age in respect of any contribution week for the whole of which—

(i) she is entitled to widow's benefit or to a retirement pension by virtue of her husband's insurance; or

(ii) her husband is entitled in respect of her to an increase of the weekly rate of any benefit,

shall be disregarded for the purposes of subsection (4) of section twenty of the principal Act (which relates to increases in the weekly rate of a retirement pension payable by virtue of the beneficiary's own insurance in respect of contributions paid by the beneficiary in respect of periods after the beneficiary attains pensionable age);

(*c*) for a voidable marriage which has been annulled, whether before or after the date when the regulations come into force, to be treated for the purposes of such provisions of, or of any regulations under, the principal Act or this Act, subject to such exceptions or conditions, as may be prescribed as if it had been a valid marriage which was terminated by divorce at the date of the annulment.

(2) Regulations under this Act shall be made separately according as they relate to the principal Act or to the Industrial Injuries Act, and for the purposes—

(*a*) of any provision of the Act to which they relate with respect to regulations under that Act; and

(*b*) of the Statutory Instruments Act, 1946,

shall be treated as regulations under the Act to which they relate.

Citation, construction, commencement and extent.

10.—(1) This Act may be cited as the National Insurance Act, 1957.

(2) This Act—

(*a*) so far as it relates to the principal Act, shall be construed as one with that Act and may be cited together with the National Insurance Acts, 1946 to 1956, as the National Insurance Acts, 1946 to 1957;

(*b*) so far as it relates to the Industrial Injuries Act, shall be construed as one with that Act and may be cited together with the National Insurance (Industrial Injuries) Acts, 1946 to 1956, as the National Insurance (Industrial Injuries) Acts, 1946 to 1957;

and, without prejudice to the generality of the foregoing provisions with respect to the construction of this Act, subsection (1) of section four of the National Insurance Act, 1954 (which relates to the making under the principal Act of regulations relating to the provisions of the said Act of 1954) shall have effect for the purposes of this Act as if any reference in that subsection to the said Act of 1954 were a reference to this Act.

(3) This Act shall come into operation on such day as the Minister may by order made by statutory instrument appoint, and different days may be appointed for different purposes of this Act or for the same purposes in relation to different cases or classes of case; and any such order may—

(*a*) if the date thereby appointed is appointed for some only of the purposes of this Act or in relation only to some cases or classes of case, contain such incidental or supplementary provisions as appear to the Minister to be necessary or expedient as respects the period or any part of the period when this Act is to have a partial operation only, and, in particular, provisions modifying and supplementing, in relation to the period to which the order is to apply, the provisions of this Act or any Act amended by this Act;

(*b*) be varied or revoked by a subsequent order under this subsection.

(4) Without prejudice to the operation, in relation to any matters arising out of this Act, of any provision relating to Northern Ireland of the principal Act or the Industrial Injuries Act, this Act shall not extend to Northern Ireland.

SCHEDULE

Section 3.

CORRESPONDING AMENDMENTS OF OTHER ENACTMENTS

1. In the National Insurance (Industrial Injuries) Act, 1946—

(*a*) in paragraph (*a*) of subsection (1) of section eighteen, for the words "wholly or mainly maintaining" there shall be substituted the words "contributing at a weekly rate of not less than the amount aforesaid to the maintenance of";

(*b*) in subsection (1) of section thirty-five, after the word "maintaining" there shall be inserted the words "or to be contributing at any weekly rate to the maintenance of".

2. In the Workmen's Compensation (Supplementation) Act, 1951, in paragraph (*a*) of subsection (2) of section two, for the words "residing with or wholly or mainly maintaining his wife (or is under the provisions of a scheme to be treated as doing so)" there shall be substituted the words "treated under the provisions of a scheme as residing with or contributing at a weekly rate not less than that prescribed by the scheme towards the maintenance of his wife".

3. In the Pneumoconiosis and Byssinosis Benefit Act, 1951, in paragraph (*d*) of subsection (2) of section three, for the words "residing with or is wholly or mainly maintaining his wife (or is under the scheme to be treated as doing so)" there shall be substituted the words "treated under the provisions of the scheme as residing with or contributing at a weekly rate of not less than the amount hereinafter mentioned towards the maintenance of his wife".

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Family Allowances Act, 1945	8 & 9 Geo. 6. c. 41.
Statutory Instruments Act, 1946	9 & 10 Geo. 6. c. 36.
National Insurance (Industrial Injuries) Act, 1946	9 & 10 Geo. 6. c. 62.
National Insurance Act, 1946	9 & 10 Geo. 6. c. 67.
National Assistance Act, 1948	11 & 12 Geo. 6. c. 29.
Children Act, 1948...	11 & 12 Geo. 6. c. 43.
Workmen's Compensation (Supplementation) Act, 1951	14 & 15 Geo. 6. c. 22.
National Insurance Act, 1951	14 & 15 Geo. 6. c. 34.
Pneumoconiosis and Byssinosis Benefit Act, 1951	15 & 16 Geo. 6. & 1 Eliz. 2. c. 4.
National Insurance Act, 1953	1 & 2 Eliz. 2. c. 29.
National Insurance Act, 1954	3 & 4 Eliz. 2. c. 1.
Family Allowances and National Insurance Act, 1956	4 & 5 Eliz. 2. c. 50.

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