6. CLASSIFICATION

The National Insurance (Classification) Regulations, 1948

1948 No. 1425

Made - - - -	*28th June*, 1948
Laid before Parliament	*29th June*, 1948
Coming into Operation	*5th July*, 1948

M.N.I. 112.

The Minister of National Insurance, in conjunction with the Treasury so far as relates to matters with regard to which the Treasury have so directed, in exercise of powers conferred by sections 1 and 9 of the National Insurance Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations:—

9 & 10 Geo. 6. c. 67.

Citation, commencement and interpretation.

1.—(1) These regulations may be cited as the National Insurance (Classification) Regulations, 1948, and shall come into operation on the 5th July, 1948.

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

"The Act" means the National Insurance Act, 1946;

"the Minister" means the Minister of National Insurance;

"nurse" means any person within the class of persons who, under section 7 of the Nurses Act, 1943, or section 7 of the Nurses (Scotland) Act, 1943, and any regulations made thereunder(a) may lawfully be supplied from an agency for the supply of nurses;

6 & 7 Geo. 6. c. 17.

6 & 7 Geo. 6. c. 33.

"hospital" means any institution for the reception and treatment of persons suffering from illness or mental defectiveness, any maternity home, and any institution for the reception and treatment of persons during convalescence or persons requiring medical rehabilitation, and includes clinics, dispensaries and out-patient departments maintained in connection with any such institution or home as aforesaid;

and other expressions have the same meanings as in the Act.

(3) References in these regulations to any enactment or regulations shall include references to such enactment or regulations as amended by any subsequent enactment, order or regulations.

52 & 53 Vict. c. 63.

(4) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Classification of insured persons.

2. For the purposes of the Act, the classification of insured persons shall be modified in manner following, that is to say:—

(1) Subject to the provisions of paragraphs (2) and (3) of this regulation, every insured person shall, in respect of any employment specified in any paragraph of column (A) of Part I of the First Schedule to these regulations, be treated as an employed person in so far as he is gainfully occupied in such employment and is not a person specified in the corresponding paragraph of column (B) of that Part.

(2) Subject to the provisions of paragraph (3) of this regulation, every insured person shall, in respect of any employment specified in any paragraph of column (A) of Part II of the said First Schedule, be treated as a self-employed person in so far as he is gainfully occupied in such employment and is not a person specified in the corresponding paragraph of column (B) of that Part.

(a) *See* S.R. & O. 1945 (Nos. 639 and 654) I, pp. 901 and 910; and 1947 (Nos. 145 and 389) I, pp. 1524–1526.

(3) Every insured person shall, in respect of any employment specified in any paragraph of column (A) of Part III of the said First Schedule, be treated as a non-employed person, and any such employment shall be disregarded, in so far as he is not a person specified in the corresponding paragraph of column (B) of that Part.

Employments treated as continuing.

3. For the purposes of the Act, the employment of a person shall be treated as continuing in the circumstances specified in the Second Schedule to these regulations.

Special provisions with respect to persons declared by High Court to be included in a particular class of insured persons.

4.—(1) Where, under the provisions of the Act relating to references and appeals to the High Court(**a**), the High Court decide any question as to the class of insured persons in which a person is to be included, and that decision is inconsistent with some previous determination of a question by the Minister(**a**), then, if the Minister is satisfied that contributions of a prior class have been paid by or in respect of any person by reason of that determination or in the reasonable belief that that determination was applicable, he may, if it appears to him that it would be in the interests of the person by or in respect of whom such contributions have been paid, or of any claimant or beneficiary by virtue of that person's insurance, so to do, direct that that person shall be treated as though he had been included in the class of insured persons corresponding to the contributions paid during any contribution weeks for which contributions of a prior class were so paid before the date on which the decision of the High Court was given, and, if such a direction is given, that person shall be deemed to have been included in that class accordingly for any such weeks.

(2) In any case where the Minister, on new facts being brought to his notice, has revised a determination of a question previously given by him, the provisions of this regulation shall apply with the necessary modifications in the same manner as they apply where the High Court have given a decision inconsistent with a determination previously given by the Minister.

(3) In this regulation, the expression " contributions of a prior class " means, in relation to a non-employed person, contributions as an employed or self-employed person and employer's contributions, and, in relation to a self-employed person, contributions as an employed person and employer's contributions.

(4) In the application of this regulation to Scotland, for any reference to the High Court there shall be substituted a reference to the Court of Session(**b**).

Persons to be treated as employers.

5. In relation to any employment specified in column (A) of the Third Schedule to these regulations, the person specified opposite thereto in column (B) of that Schedule shall for the purposes of the Act be treated as the employer of the employed person concerned.

Dated this 28th day of June, 1948.

James Griffiths,
Minister of National Insurance.

R. J. Taylor,
C. James Simmons,
Two of the Lords Commissioners of His Majesty's Treasury.

(**a**) *See* s. 43 (1) and (4), National Insurance Act, 1946.
(**b**) *See* s. 79 (*a*), National Insurance Act, 1946.

FIRST SCHEDULE

Regulation 2

PART I

Employments in respect of which, subject to the provisions of regulation 2 and to the exceptions in column (B) of this Part, persons are treated as employed persons (A)	*Persons excepted from the operation of column (A)* (B)
1. Employment under a public or local authority constituted in Great Britain (not being employment under the Crown) notwithstanding that it is not employment under a contract of service.	1. Any person in employment specified in paragraph 1 of column (A) where the service ordinarily performed by the person in that employment (or, if he is employed in more than one such employment or is also employed in an employment specified in paragraph 3 of column (A), the aggregate service performed by him in those employments) is part-time service only, or where that employment is— (*a*) as a medical practitioner or dental practitioner on the list of an Executive Council under the National Health Service Act, 1946, or the National Health Service (Scotland) Act, 1947; (*b*) as a chaplain or other minister of religion; (*c*) otherwise than as an officer or servant of a public or local authority or as a constable.
2. Employment of a medical practitioner or a dental practitioner— (*a*) involving whole-time service in any hospital; or (*b*) in which he is wholly or mainly engaged and is remunerated by salary.	2. None.
3. Employment— (*a*) in England and Wales as superintendent registrar or deputy superintendent registrar, registrar or deputy registrar of births and deaths, or registrar or deputy registrar of marriages; (*b*) in Scotland as registrar or assistant registrar of births and deaths and marriages.	3. Any person in employment specified in paragraph 3 of column (A) where the service ordinarily performed by the person in that employment (or, if he is employed in more than one such employment or is also employed in an employment specified in paragraph 1 of column (A), the aggregate service performed by him in those employments) is part-time service only.
4. Employment of a nurse (as defined in regulation 1 (2)) as nurse for the sick or as midwife, notwithstanding that the employment is not under a contract of service.	4. Any person in employment specified in paragraph 4 of column (A) in any contribution week in which that person is not exclusively so employed by one employer for at least one day.
5. Employment in Great Britain in plying for hire with any vehicle or vessel the use of which is obtained under any contract of bailment or letting for hire (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise.	5. None.

9 & 10 Geo. 6. c. 81.
10 & 11 Geo. 6. c. 27.

PART II

Employments in respect of which, subject to the provisions of regulation 2 and to the exceptions in column (B) of this Part, persons are treated as self-employed persons	*Persons excepted from the operation of column (A)*
(A)	**(B)**
6. Employment of a person (not being an existing contributor within the meaning of regulations (a) made under section 65 of the Act) in any employment by virtue of which he would but for the provisions of this paragraph be an employed person, if— (*a*) the person is not ordinarily resident in the United Kingdom; and (*b*) the employer of that person is not so ordinarily resident, and has no place of business in the United Kingdom.	6. None.
7. Employment of a casual nature.	7. Any person in employment specified in paragraph 7 of column (A) where that employment is either— (*a*) for the purposes of the employer's trade or business; or (*b*) for the purposes of any game or recreation where the person employed is engaged or paid through a club; or (*c*) of a nurse (as defined in regulation 1 (2)) as nurse for the sick or as midwife in any contribution week in which the nurse is exclusively so employed by one employer for at least one day.
8. Employment in or about a cathedral, church or other place of religious worship as (*a*) member of the choir, (*b*) organist or other musician, (*c*) precentor, (*d*) beadle, (*e*) caretaker, (*f*) chapel keeper, (*g*) church officer, (*h*) clerk, (*i*) door-keeper, (*j*) pew-opener, (*k*) sacristan, (*l*) sexton or (*m*) verger, including duties incidental to the employment.	8. Any person (not being a person mainly dependent for his livelihood on his earnings from other employment as a self-employed person, or, in the case of employment as a precentor, not being a minister of religion) whose weekly earnings from any one or more of the employments specified in paragraphs 8 and 32 of column (A) are ordinarily twenty shillings or more.

(a) National Insurance (Pensions, Existing Contributors) (Transitional) Regulations, 1948 (S.I. 1948 No. 612, p. 2834 below); National Insurance (Sickness Benefit, Maternity Benefit and Miscellaneous Provisions) (Transitional) Regulations, 1948 (S.I. 1948 No. 1276, p. 2639 above); and National Insurance (Unemployment Benefit) (Transitional) Regulations, 1948 (S.I. 1948 No. 1279, p. 2685 above).

Employments in respect of which, subject to the provisions of regulation 2 and to the exceptions in column (B) of this Part, persons are treated as self-employed persons	*Persons excepted from the operation of column (A)*
(A)	**(B)**
9. Employment as a sub-postmaster remunerated by scale payment.	9. Any person who renders on the average 18 or more hours' personal service weekly as a sub-postmaster remunerated by scale payment and is not mainly dependent for his livelihood on the earnings derived by him from any occupation other than employment under the Postmaster General.
10. Employment (not being employment specified in paragraph 11 of column (A)) of a person if and to the extent that he is employed in any contribution week by or under any one employer for less than four hours in that contribution week.	10. None.
11. Employment of a person in cleaning or other domestic work if and to the extent that he is employed in any contribution week by or under any one employer for less than eight hours in that contribution week.	11. None.
12. Employment as an agent paid by commission or fees or a share in the profits, or partly in one and partly in another of such ways, where the person so employed is mainly dependent for his livelihood on his earnings from some occupation other than employment as such an agent, or where he is ordinarily employed as such agent by more than one employer, and his employment under no one of such employers is that on which he is mainly dependent for his livelihood.	12. None.
13. Employment under a contract of service by the insured person's wife for the purposes of a trade or business.	13. None.
14. Employment of a nurse (as defined in regulation 1 (2)) as nurse for the sick or as midwife in any contribution week in which the nurse is not exclusively so employed by one employer for at least one day.	14. None.
15. Employment by any one employer on a track being a dog racecourse within the meaning of the Betting and Lotteries Act, 1934, involving service only on the days and during the period within which betting on that track by way of bookmaking or by means of a totalisator on the results of dog races is not prohibited by that Act.	15. None.
16. Occasional employment in the operation of a totalisator on an approved horse racecourse within the meaning of the Betting and Lotteries Act, 1934.	16. None.

24 & 25 Geo. 5. c. 58.

PART III

Employments in respect of which, subject to the exceptions in column (B) of this Part, persons are treated as non-employed persons and their employment therein disregarded	*Persons excepted from the operation of column (A)*
(A)	**(B)**
17. Any employment or employments as a self-employed person (including any employment in respect of which a person is, under these regulations, treated as a self-employed person) where the insured person is not ordinarily gainfully occupied in any such employment or employments or where the weekly earnings (or, where there is more than one such employment, the aggregate weekly earnings) derived therefrom are ordinarily less than twenty shillings.	17. None.
18. Employment of a person if and to the extent that he is employed in any contribution week by or under any one employer in employment which does not exceed in length a normal working day, where such employment occurs— (*a*) only on a Sunday in any contribution week and the person is also employed in an employment by or under the same employer on the Monday in the succeeding week; or (*b*) only on a Monday in any contribution week and the person has also been employed in an employment by or under the same employer on the Sunday and on at least one other day in the preceding week.	18. None.
19. Employment by the father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother or half-sister of the insured person, in so far as the employment— (*a*) is employment in a private dwelling-house in which both the insured person and the employer reside; and (*b*) is not employment for the purposes of any trade or business carried on there by the employer.	19. None.
20. Employment by the insured person's wife otherwise than for the purposes of a trade or business whether or not under a contract of service.	20. None.
21. Employment of a married woman (whether or not under contract of service) by, or as partner of, or in any similar association with, her husband.	21. Any person employed as specified in paragraph 21 of column (A), where her employment is as partner of, or in any similar association with, her husband in a trade or business, and she is ordinarily engaged in that business for not less than twenty-four hours in a contribution week.

Employments in respect of which, subject to the exceptions in column (B) of this Part, persons are treated as non-employed persons and their employment therein disregarded	*Persons excepted from the operation of column (A)*
(A)	**(B)**
22. Employment as a special constable.	22. None.
23. Employment, involving part-time service only, as a member of a fire brigade maintained in pursuance of the Fire Services Act, 1947.	23. None.
24. Employment, involving part-time service only— (*a*) in coast-watching for life-saving purposes; (*b*) in the operation of a life-boat; or (*c*) in the operation of a rocket or other life-saving apparatus or any gear connected therewith; and in any duties ancillary to such operations.	24. None.
25. Employment, involving part-time service only, in connection with the relief of light keepers or otherwise in attendance upon lighthouses, or in connection with the care or upkeep of minor lights, buoys, beacons, signals or tide-gauges.	25. None.
26. Employment, involving part-time service only, on or in connection with a pasture or grazing held in common under the Small Landholders (Scotland) Acts, 1886 to 1931, either as a shepherd or other herd.	26. None.
27. Employment as secretary or clerk of a society, club, committee, philanthropic institution, school or other similar body or institution, where personal service is ordinarily required only occasionally or outside the ordinary hours of work.	27. None.
28. Employment, involving part-time service only, in the performance of clerical duties after 6 p.m. or outside the ordinary hours of work.	28. None.
29. Employment, for a period not exceeding one day on each occasion, as an occasional helper to or substitute for one or more weavers regularly employed in a cotton, woollen, worsted, silk or artificial silk mill, where the employer of the weaver pays no wages or other pecuniary remuneration in respect of the employment to the person so employed as a helper or substitute.	29. None.
30. Employment as a caretaker in respect of which no wages are paid, or other money payments made, either by the employer or by any other person.	30. None.

10 & 11 Geo. 6. c. 41.

Employments in respect of which, subject to the exceptions in column (B) of this Part, persons are treated as non-employed persons and their employment therein disregarded	*Persons excepted from the operation of column (A)*
(A)	**(B)**
31. Employment, involving part-time service only, as a caretaker of, or key-keeper at, ancient monuments.	31. None.
32. Employment, involving part-time service only— (*a*) in or about a cathedral, church or other place of religious worship, as (i) acolyte, (ii) bell-ringer or (iii) organ-blower; or (*b*) as (i) bible woman, (ii) lay preacher or (iii) scripture-reader.	32. Any person (not being a person mainly dependent for his livelihood on his earnings from employment as a self-employed person) whose weekly earnings from any one or more of the employments specified in paragraphs 8 and 32 of column (A), excluding any earnings as precentor of a minister of religion, are ordinarily twenty shillings or more.
33. Employment as a telephone exchange attendant, if residing elsewhere than on the exchange premises and giving service only at night or on Sunday.	33. Any person who is mainly dependent for his livelihood on the earnings derived by him from one or more employments under the Postmaster General, including such employment as a telephone exchange attendant.
34. Employment as a part-time Post Office telephonist (day or night). 35. Employment as an auxiliary postman. 36. Employment as an auxiliary sorter. 37. Employment as a part-time indoor assistant for postal and telegraph business. 38. Employment as a collector or deliverer of postal letters under allowance. 39. Employment as a messenger conveying Post Office mails on station service or pier service. 40. (*a*) Employment at sittings of the judge or registrar of a county court as an usher or interpreter involving occasional attendance only. (*b*) Employment at sittings of the Sheriff, Police, or Justice of the Peace Courts in Scotland as— (i) an interpreter involving occasional attendance only; or (ii) a Bar Officer or Court Officer. 41. Employment, involving part-time service only, under a local savings committee of the National Savings Committee or the Scottish Savings Committee in the capacity of clerk, secretary or organiser or in the performance of clerical duties for such a committee.	34 to 53. Any person (not being a person mainly dependent for his livelihood on his earnings from employment as a self-employed person) employed in one or more of the employments specified in paragraphs 34 to 39, 40 (*b*) (ii) and 41 to 53 of column (A) whose weekly earnings in employment by the same employer in any one or more of the employments so specified are ordinarily twenty shillings or more.

Employments in respect of which, subject to the exceptions in column (B) of this Part, persons are treated as non-employed persons and their employment therein disregarded	*Persons excepted from the operation of column (A)*
(A)	**(B)**
42. Employment by any public or local authority to act in relief of gymnasium or lavatory attendants or of attendants of a park, playground or other public open space.	
43. Employment in England or Wales by a public or local authority or by any company or body responsible for the lighting of any borough or other local area, as a lamplighter or extinguisher, whether the employment does or does not include the duty of cleaning or keeping the lamps in order.	
44. Employment, involving part-time service only, as a leader, helper or instructor in an institution of further education, including a voluntary youth club or community centre where personal service is required only outside the ordinary hours of work.	
45. Employment, involving part-time service only, in the preparation and service of school meals provided mainly for day pupils by an education authority or other school governors or managers.	34 to 53. Any person (not being a person mainly dependent for his livelihood on his earnings from employment as a self-employed person) employed in one or more of the employments specified in paragraphs 34 to 39, 40 (*b*) (ii) and 41 to 53 of column (A) whose weekly earnings in employment by the same employer in any one or more of the employments so specified are ordinarily twenty shillings or more.
46. Employment, involving part-time service only, as— (*a*) caretaker of a burial ground, cemetery or crematorium under the control of a burial authority within the meaning of the Burial Acts, 1852 to 1906, and the Cremation Act, 1902; (*b*) caretaker of a cemetery or crematorium constructed under any special Act of Parliament; (*c*) caretaker of a water-works under the control of a local authority or other water undertaker; or (*d*) caretaker of a burial ground, church yard or crematorium under the control of a local authority in Scotland.	
47. Employment under a public or local authority constituted in Great Britain, involving part-time service only, as— (*a*) burial ground clerk; (*b*) keeper of records of a burial ground; (*c*) clerk of a special district committee, not otherwise employed by such a local or public authority; (*d*) water or drainage officer; (*e*) home or domestic help; or (*f*) helper in a children's cottage home.	

2 Edw. 7. c. 8.

Employments in respect of which, subject to the exceptions in column (B) of this Part, persons are treated as non-employed persons and their employment therein disregarded	*Persons excepted from the operation of column (A)*
(A)	**(B)**
48. Employment by a local education authority or by the managers of a primary school or by the governors of a secondary school, or in Scotland by a public or local authority or by the managers of a State-aided school— (*a*) involving part-time service only, in the cleansing of drains, cesspools, pits or offices in or about any such school; or (*b*) involving attendance on Sundays only, in relief of a school keeper in any such school.	
49. Employment, involving part-time service only, in or about a theatre, cinema, music-hall or any place ordinarily used for public dancing or music or other public entertainment of a like kind as— (*a*) an attendant engaged for the comfort, convenience or safety of the public admitted thereto; or (*b*)—(i) check-taker, (ii) money-taker, (iii) flyman, (iv) propertyman, (v) stage hand, (vi) supernumerary, (vii) lighting operator, (viii) call boy or (ix) dresser.	
50. Employment, involving part-time service only, in the delivery of goods from retail establishments.	
51. Employment, involving part-time service only, in attendance upon old age or retirement pensioners or persons in receipt of national assistance where the employer is not the person to whom attendance is given.	
52. Employment, involving part-time service only, as a sick visitor by or on behalf of a society or other body providing benefits to its members during sickness, or a branch of any such society or body.	
53. Employment in Scotland, involving part-time service only, as a ground officer.	34 to 53. Any person (not being a person mainly dependent for his livelihood on his earnings from employment as a self-employed person) employed in one or more of the employments specified in paragraphs 34 to 39, 40 (*b*) (ii) and 41 to 53 of column (A) whose weekly earnings in employment by the same employer in any one or more of the employments so specified are ordinarily twenty shillings or more.

SECOND SCHEDULE

Regulation 3

CIRCUMSTANCES IN WHICH EMPLOYMENT IS TREATED AS CONTINUING

Where an insured person is employed as a self-employed person and is ordinarily so employed, that employment shall be treated as continuing unless and until he is no longer ordinarily employed in any gainful occupation in Great Britain (other than an employment specified in Part III of the First Schedule to these regulations which is to be disregarded):

Provided that—

(*a*) any week during the whole or part of which he is engaged in an employed contributor's employment shall (subject to the provisions of paragraph (*b*) of this proviso) not be taken into account for the purposes of this Schedule;

(*b*) this Schedule shall cease to apply to a person if and when in a period of thirteen consecutive weeks he has been engaged in an employed contributor's employment for ten of those weeks.

THIRD SCHEDULE

Regulation 5

EMPLOYMENTS IN RESPECT OF WHICH PERSONS ARE TREATED AS EMPLOYERS

Employments	*Persons treated as employers*
(A)	**(B)**
1. Employment in Great Britain in plying for hire with any vehicle or vessel the use of which is obtained under any contract of bailment or letting for hire (other than a hire purchase agreement) in consideration of the payment of a fixed sum or a share in the earnings or otherwise.	1. The person from whom the use of the vehicle or vessel is so obtained.
2. Employment of a casual nature for the purposes of any game or recreation of a person who is engaged or paid for that employment through a club.	2. The club.
3. Employment of a nurse (as defined in regulation 1 (2)) as nurse for the sick or as midwife, whether under contract of service or not, not being employment specified in paragraph 4 of column (B) of the First Schedule to these regulations, or paragraph 14 of column (A) of that Schedule, where the pecuniary remuneration in respect of the employment is received from— (*a*) any person carrying on an agency for the supply of nurses within the meaning of the Nurses Act, 1943, or the Nurses (Scotland) Act, 1943; or (*b*) any local authority; or (*c*) any person or body of persons carrying on a hospital.	3. The person or body from whom the pecuniary remuneration is received.

Employments (A)	*Persons treated as employers* (B)
4. Employment of a nurse (as defined in regulation 1 (2)) as nurse for the sick or as midwife, whether under contract of service or not, not being employment specified in paragraph 4 of column (B) of the First Schedule to these regulations, or paragraph 14 of column (A) of that Schedule, where the pecuniary remuneration in respect of the employment is received from a patient or from a third person (not being a person, authority or body specified in sub-paragraphs (*a*), (*b*) and (*c*) of the last preceding paragraph of this column) on behalf of such a patient.	4. The patient.
5. Employment— (*a*) in England and Wales as superintendent registrar or deputy superintendent registrar, registrar or deputy registrar of births and deaths, or registrar or deputy registrar of marriages; (*b*) in Scotland as registrar or assistant registrar of births and deaths and marriages.	5. (*a*) In England and Wales, the local authority in whose employment he is deemed to be an officer for the purposes of the Local Government Superannuation Act, 1937; 1 Edw. 8 & 1 Geo. 6. c. 68. (*b*) in Scotland, the council of the county or large burgh within which the whole or the greater part of the registration area of such officer is situate.

EXPLANATORY NOTE

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

These Regulations modify the classification of certain insured persons in specified employments with the result that, according to circumstances, persons who would otherwise be employed persons are treated either as self-employed persons or non-employed persons, and persons who would otherwise be self-employed persons are treated either as employed persons or non-employed persons. Non-employed persons are not reclassified (regulation 2 and First Schedule).

Provision is made for continuing the status of a self-employed person until the happening of certain specified events (regulation 3 and Second Schedule).

Provision is also made for the special classification of persons following a decision of the High Court or a revised decision of the Minister so as to enable the original classification to stand where this would be in the interests of the person concerned (regulation 4).

The remaining provisions are of a consequential character.