7. COMPENSATION

The National Insurance (Compensation) Regulations, 1948

1948 No. 2729

Made - - - - 17th December, 1948
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M.N.I. 148.

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The Minister of National Insurance, acting in conjunction with the Treasury, in exercise of the powers conferred by section 67 of the National Insurance Act, 1946, and of all other powers enabling him in that behalf, hereby makes the following regulations in the terms of a draft duly approved by resolution of each House of Parliament*:— 9 & 10 Geo. 6. c. 67.

PART I

General

1.—(1) These regulations may be cited as the National Insurance (Compensation) Regulations, 1948, and shall come into operation on the 23rd December, 1948. Citation, commencement and interpretation.

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

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

" the Health Insurance Act " means the National Health Insurance Act, 1936; 26 Geo. 5. & 1 Edw. 8. c. 32.

" the Compensation (Temporary Provisions) Regulations " means the National Insurance (Compensation) (Temporary Provisions) Regulations, 1947(a);

" the Minister " means the Minister of National Insurance;

" existing employee " has the meaning given to that expression in regulation 2;

" cause of the claim " has the meaning given to that expression in regulation 4;

" war service " has the meaning given to that expression in regulation 8;

" normal maximum retiring age " means, in relation to an existing employee, the age at which, under any pension scheme applying to the last employment of that person by virtue of which he is an existing employee, that person would have been expected to retire from the employment in the ordinary course, or, where that person was not subject to any such provision, the age of sixty-five, in the case of a man, and sixty, in the case of a woman;

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* The necessary Resolutions were passed by the House of Lords on the 14th December, 1948, and by the House of Commons on the 15th December, 1948.

(a) S.R. & O. 1947 (No. 2610) I, p. 1477.

" alternative State employment " means employment in an established capacity in the permanent civil service of the State within the meaning of section 17 of the Superannuation Act, 1859;

22 Vict. c. 26.

" absorbed person " means an existing employee who has suffered an attributable loss of employment and has, not later than the 5th July, 1949, commenced alternative State employment or service of the State in an unestablished capacity undertaken under arrangements made by the Civil Service Commissioners or the Minister for assisting persons who lose their employment in consequence of the passing of the Act, and any reference to employment by virtue of which a person is an absorbed person shall be construed as referring to alternative State employment or such service of the State so undertaken;

" non-absorbed person " means an existing employee who is not an absorbed person;

" attributable " means, in relation to loss of employment or to loss or diminution of emoluments or of pension rights, directly attributable to the passing of the Act or the making of any regulations thereunder;

" loss of employment " means the loss by an existing employee of employment by virtue of which he is an existing employee;

" loss or diminution of emoluments or of pension rights " means the loss or diminution in the case of an existing employee of emoluments or of pension rights associated with an employment by virtue of which he is an existing employee;

" pension ", in relation to any person, means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of him, and includes a lump sum or a gratuity so payable and a return of contributions to a pension fund;

" pension fund " means, subject to the provisions of paragraph (3) of this regulation, a fund established for the purpose of paying pensions;

" pension rights " includes, in relation to any person, all forms of right to, or eligibility for, the present or future payment of a pension to or in respect of that person;

" pension scheme " includes, subject to the provisions of paragraph (3) of this regulation, any form of arrangements for the payment of pensions, whether subsisting by virtue of Act of Parliament, trust, contract or otherwise;

" pensionable employee " has the meaning given to that expression in regulation 20;

" non-pensionable employee " means an existing employee who is not a pensionable employee;

" emoluments " means all salary, wages, commission, fees and other similar payments, together with any bonus, allowance or overtime pay incorporated in the general wages structure, including any regularly recurring overtime, and the money value of any personal travel privileges appertaining to an employment, but does not include payments for travelling on duty, subsistence, clerical assistance, office accommodation or overtime pay not incorporated as aforesaid;

" net emoluments ", in relation to an existing employee who suffers an attributable loss of employment or loss or diminution of emoluments or of pension rights, means the normal annual rate of his salary or wages immediately before such loss or diminution (or immediately

before the appointed day(a), if that is earlier), together with the amount of any other emoluments during the preceding twelve months after deducting from such rate or amount the like percentage (if any) thereof as he was then liable to contribute under any pension scheme associated with his employment:

Provided that, where the sum of that rate and amount before such deduction exceeds four thousand pounds, the excess shall be disregarded;

" the Superannuation Rules " means the National Insurance and Civil Service (Superannuation) Rules, 1948(b).

" tribunal " means a referee or board of referees appointed by the Minister of Labour and National Service, after consultation with the Lord Chancellor (or, where the proceedings are to be held in Scotland, after consultation with the Secretary of State);

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

(3) References in these regulations to a pension scheme or pension fund shall not apply to any such scheme or fund unless provision is made, either by statute relating to the scheme or fund or by trust deed, rules or other instrument made for the purposes thereof, as to the conditions upon which—

(*a*) in the case of a contributory scheme or fund, persons may become and cease to be contributors; and

(*b*) in every case, persons may become, and cease to be, entitled to benefits.

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

(5) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. 52 & 53 Vict. c. 63.

PART II

Persons eligible for award of compensation

2.—(1) These regulations apply to persons (in these regulations called " existing employees ") in respect of whom the following conditions are fulfilled, that is to say— Existing employees.

(*a*) that they were on the 31st July, 1946, employed full time and had either during the period from the 5th July, 1940, to the 31st July, 1946, or during the period from the 1st August, 1944, to the 31st July, 1946, been so employed—

(i) by an approved society or by some other body (including a body of which the society was a branch or section) administering the affairs of an approved society, not being persons who were so employed wholly or mainly on business other than health insurance business, or

(ii) in connection with any special scheme under section 73 of the Unemployment Insurance Act, 1935, by the body charged with the administration of the scheme; and 25 & 26 Geo. 5. c. 8.

(a) 5th July, 1948. *See* S.I. 1948 No. 54, p. 2615 above.
(b) S.I. 1948 No. 2434, p. 3266 below.

(*b*) that they attained the age of eighteen years before the 5th July, 1940, and were, or continued to be, employed full time by such society or body as is mentioned in the foregoing condition during such part or parts of the period from that date until the appointed day (or, where the cause of the claim under these regulations arises before the appointed day, until the date of its arising) as are not included in the period of employment applicable to them under that condition.

(2) For the purposes of the preceding paragraph, employments under successive employers shall be aggregated, and the conditions as to full time employment shall be deemed to be satisfied notwithstanding breaks in the employment due to sickness, unemployment or other unavoidable cause, provided that the said breaks do not in the aggregate exceed seventy-eight weeks.

(3) Unless the context otherwise requires—

(*a*) any reference in these regulations to employment by virtue of which a person is an existing employee shall be construed as referring to employment in relation to which the provisions of this regulation are satisfied and any earlier full time employment by such society or body as is mentioned in this regulation of which it is in continuation; and

(*b*) any reference to a person's service shall be construed as referring to service in employment by virtue of which he is an existing employee, excluding service before he attained the age of eighteen years, and in calculating for any purpose of these regulations the number of years of his service after that or any later age in a case where the period of service after such age was not an exact number of years, any part of a year which is less than six months shall be ignored and any part which is six months or more shall be treated as one year.

Persons eligible for compensation.

3. Subject to the provisions of these regulations, every person who is an existing employee and who suffers attributable loss of employment or attributable loss or diminution of emoluments or of pension rights shall be entitled to have his case considered for the award of compensation for such loss or diminution under these regulations, to be determined in accordance with the provisions of Part IV hereof.

Time limit for claims.

4.—(1) Nothing in the last preceding regulation shall entitle a person to compensation unless the cause of the claim arises, and a claim is made in accordance with regulation 9, not later than two years after the appointed day.

(2) For the purpose of these regulations, the expression "cause of the claim" means, as the case may require, an attributable loss of employment or an attributable loss or diminution of emoluments or of pension rights.

(3) In the case only of an absorbed person, a claim in respect of the attributable loss of employment after which he became an absorbed person may, notwithstanding paragraph (1) of this regulation, be made at any time within two years after anything done by the Minister or any Government department employing him (no misconduct or unreasonable refusal of further employment under the Crown on his part being established) has deprived him of his emoluments or has reduced them below his net emoluments or has deprived him of, or reduced, his pension rights:

Provided that this paragraph shall not apply to anything so done more than ten years after the appointed day.

Source of compensation, etc.

5. Any compensation to which an existing employee becomes entitled under these regulations shall be paid out of the National Insurance Fund to, or in trust for, the person who is entitled to receive it, and shall not be assignable.

Certificates, etc., to be furnished before payment of compensation.

6.—(1) Every person by whom or on whose behalf any payment in respect of compensation under these regulations is receivable (hereafter in this regulation called " the payee ") shall furnish in such manner and at such times as the Minister may determine such certificates and other documents and such information of facts affecting the right to payment as the Minister may require, and in particular shall notify the Minister in writing of any change of circumstances which he might reasonably be expected to know might affect the right to payment as soon as reasonably practicable after the occurrence thereof.

(2) Where the payee is certified by a justice or minister of religion, and by a medical practitioner, to be unable by reason of mental disability to manage his affairs, the Minister may pay so much of any payment in respect of compensation under these regulations as he may think fit to the institution or person having the care of the payee, and may pay the surplus, if any, or such part thereof as he may think fit, for or towards the maintenance and benefit of the wife or husband and relatives of the payee, and the Minister shall be discharged from all liability in respect of any sums so paid.

(3) Where the payee dies before any payment in respect of compensation under these regulations is made, and the amount unpaid does not exceed one hundred pounds, the amount so unpaid may be paid to the personal representative of the payee without probate or other proof of title, or may be paid or distributed to or among the persons appearing to the Minister to be the persons beneficially entitled to the personal estate of the payee, and, in determining the persons to whom, and the proportions in which, the amount so unpaid shall be paid or distributed, the Minister may have regard to any payments made or expenses incurred by any such person for or on account of the funeral of the payee.

Losses to be disregarded.

7. No compensation shall be payable in respect of a loss of less than two and one half per cent. of a claimant's net emoluments or a loss of pension rights less than those derived from two and one half per cent. of his net emoluments.

PART III

War service

Employees on war service.

8.—(1) Any person who was engaged in war service at any time during the period commencing on the 26th May, 1939, and ending immediately before the appointed day and who, but for his being so engaged, would have been an existing employee (hereafter in this regulation called " an employee on war service ") shall be deemed to be an existing employee.

(2) A person shall not be treated as satisfying the requirements of the preceding paragraph unless he had a right to (or, under a promise given to him by his employer, a reasonable expectation of) reinstatement in the employment last held by him before his war service, and

in the case of a person who ceases to be engaged in war service on or after the appointed day, he gives notice in writing to the Minister, within a period of two months after he ceases to be so engaged (or within such longer period as the Minister may for special reasons allow in a particular case), that he claims to be an employee on war service for the purpose of these regulations or of the Superannuation Rules.

(3) If an employee on war service satisfies the requirements of paragraph (1) of this regulation—

(*a*) he shall, for the purpose of these regulations, be treated as if he had remained in the employment of his last employer before his war service throughout that service and for any period thereafter during which he would, but for his war service, have been so employed, not being a period during which he was in other employment to which paragraph (1) of regulation 2 applies:

Provided that he shall only be so treated if and to the extent that he was, or would but for the passing of the Act have been, so treated by that employer, and he shall not in any case be so treated in respect of any period on or after the appointed day; and

(*b*) the calculation of his net emoluments and any other calculation required by these regulations in relation to an attributable loss of employment or loss or diminution of emoluments or of pension rights shall, in his case, be made on the basis of the preceding sub-paragraph.

(4) For the purpose of these regulations, the expression "war service" means—

(*a*) service in any of His Majesty's forces or the nursing and auxiliary services thereof;

(*b*) service in the Merchant Navy, including the sea fishing service, the pilotage and light vessel services, or as a salvage worker;

(*c*) full time service in the civil defence services (including the National Fire Service), the Royal Observer Corps, the Police War Reserve, the nursing and first aid services, and the Women's Land Army;

(*d*) any full time employment into which a person entered by direction of the Minister of Labour and National Service or the Ministry of Labour and National Insurance for Northern Ireland;

(*e*) detention by the enemy as a prisoner, military or civil, in any enemy or enemy-occupied country or internment in any enemy or enemy-occupied or neutral country in consequence of the war;

(*f*) such other employment as the Minister, with the consent of the Treasury, approves in writing;

such service, employment, detention or internment being on or after the 26th May, 1939, but not including any voluntary extension of war service or voluntary enlistment after the cessation of hostilities otherwise than with the consent of the employer in whose service the person was, both at the time of the consent and immediately before the commencement of his war service.

PART IV

Determination of compensation

Making of claim.

9.—(1) A person desiring to make a claim for compensation under these regulations shall make his claim in a form approved by the Minister for the purpose, and shall deliver his claim to the Minister.

(2) A claimant, if so required by the Minister, shall attend before a person appointed by him for the purpose, and answer all questions asked by that person touching the matters set forth in his claim, and shall furnish such documentary and other evidence as may be required to support his claim.

(3) A claimant required to attend before a person appointed by the Minister pursuant to paragraph (2) of this regulation may further be required to make a statutory declaration as to the truth of any of the answers given by him to questions asked on the occasion of such attendance touching the matters set forth in his claim.

Satisfaction of conditions of eligibility.

10. On receipt of a claim for compensation under these regulations, the Minister shall consider whether the claimant satisfies the conditions of eligibility for the payment of compensation set out in regulations 2, 3, 4 and 7 and, if he is satisfied that those conditions are not fulfilled, shall reject the claim and advise the claimant accordingly.

Interim compensation in case of loss of employment.

11. If the Minister accepts the claim, then, unless he is satisfied either that there has been no attributable loss of employment or that the claimant has substantially made good his loss by virtue of having obtained other employment or is a pensionable employee over normal maximum retiring age at the date of the loss of employment (or the date of the claim, if that is more than three months after either the date of the loss of employment or the date of coming into operation of these regulations, whichever is the later), he shall commence to make an interim payment of compensation (hereafter in these regulations called "interim compensation") to the claimant subject to and in accordance with the provisions of regulation 12.

Conditions for interim compensation.

12.—(1) Subject to the provisions of these regulations, the interim compensation shall be payable as from the date of the loss of employment (or the date of the claim, if that is more than three months after either the date of the loss of employment or the date of coming into operation of these regulations, whichever is the later), and shall be at a rate not exceeding two-thirds of the net emoluments of the employment which the claimant lost, less two-thirds of any unemployment benefit to which he may be entitled, and shall continue until the expiration of three months after the date as from which it is payable, or until the death of the claimant if that is earlier.

(2) In determining the amount of any interim compensation, the Minister shall have regard to any payments to which the claimant becomes entitled (either before or after the date of the claim), in consequence of the loss of his employment, under any contract or arrangement with the society or body by whom he was employed.

(3) The interim compensation shall be paid at intervals equivalent to those at which the said emoluments were previously payable (or at such other intervals as may be agreed with the claimant), and it may be reduced or terminated if during its currency the claimant obtains other employment or if the claimant is not over normal maximum

retiring age and the Minister is satisfied that he is not actively seeking employment or has unreasonably refused employment which has been offered to him.

(4) If the claimant obtains other employment, he shall immediately notify the Minister in writing accordingly.

(5) The Minister may require, as a condition of making any payment of interim compensation, that the claimant—

(*a*) shall be registered for employment at an employment exchange or at the Appointments Department of the Ministry of Labour and National Service; and

(*b*) if eligible to apply for alternative State employment, shall have applied for, and not unreasonably refused, such employment.

(6) There shall be deducted from any payments made under this regulation in respect of any period in respect of which provisional payments have been made on account of compensation under the Compensation (Temporary Provisions) Regulations the amount of such provisional payments so far as they do not exceed the payments due under this regulation in respect of that period.

(7) In determining whether, for the purposes of this regulation or of regulation 15, a claimant has been unreasonable in refusing an offer of alternative State employment, regard shall be had to the duties and conditions generally applying to persons in the rank or grade in which employment was offered to the claimant, and it shall not be deemed to be a reasonable ground for refusing alternative State employment that he would have been required to perform different work from that which he formerly performed or that he would have been, or might in the future be, required to transfer to some other place of work in Great Britain.

Assessment of compensation.

13. Having determined the amount of the interim compensation (if any) to be paid under the two last preceding regulations to a claimant whose claim has been accepted, the Minister shall, as soon as practicable, assess the amount (if any) of the compensation payable under the succeeding provisions of this Part of these regulations, and shall notify the claimant in writing of his decision.

Review of decisions.

14.—(1) Subject to the provisions of this regulation, at any time after the date on which any decision is notified to a claimant under regulation 13, the Minister may, in the light of any substantial change in the circumstances of the case, review the decision or, if any such decision has been referred to a tribunal, the decision of the tribunal, as the case may be, and on any review the Minister may, in the light of any such change, award compensation or increase or reduce the amount of any compensation awarded.

(2) Subject as aforesaid, a person to whom a decision under regulation 13 has been notified may, at intervals of not less than six months, request the Minister to review his decision or the decision of the tribunal, as the case may be, if he considers that there has been a substantial change in the circumstances of his case.

(3) No such review or request for a review as is mentioned in the two preceding paragraphs shall, save in exceptional circumstances, be made —

(*a*) in the case of a non-absorbed person, more than two years after the date of his claim; or

(*b*) in the case of an absorbed person, more than two years after he ceases to be in employment by virtue of which he is an absorbed person:

Provided that nothing in this paragraph shall prevent the review of a decision where—

(i) an award of compensation has been made by error; or

(ii) the Minister has reason to believe that the award has been obtained by improper means.

(4) Where the Minister reviews a decision in the case of a person who has not previously received interim compensation, and that person has become unemployed since he made his claim, the Minister may, in his discretion, pay interim compensation pending the decision on the review as if the decision were a decision on a claim.

(5) The Minister shall notify the claimant in writing of his decision on any review under the preceding provisions of this regulation.

(6) The decision on a review shall take effect from the date of the change of circumstances on which it is based, or from such later date, not being later than the date of the request made in accordance with paragraph (2) of this regulation, as the Minister may in his discretion determine.

(7) It shall be the duty of a claimant immediately to notify the Minister in writing of any new employment obtained by him or of any material increase in his earnings or any other change for the better in the circumstances affecting his entitlement to compensation:

Provided that the provisions of this paragraph shall not apply to a claimant—

(*a*) in the case of a non-absorbed person, more than two years after the date of his claim; or

(*b*) in the case of an absorbed person, more than two years after he ceases to be in employment by virtue of which he is an absorbed person.

Matters to be considered in assessing compensation.

15.—(1) For the purpose of determining whether any compensation, apart from interim compensation, is payable to any person under these regulations during any period until normal maximum retiring age, and if so the amount thereof, the Minister shall have regard—

(*a*) to any increase in the net emoluments of the claimant which he has obtained by virtue of the Act or anything done in pursuance thereof or in consequence of or in anticipation of the coming into force of the new scheme of insurance;

(*b*) to the conditions upon which his appointment was made, and the nature of the employment;

(*c*) if he has suffered an attributable loss of employment—

(i) to any other remunerative work or employment he may have undertaken or obtained in place of the employment he has lost;

(ii) to the amount of any compensation payable to him under the Reinstatement in Civil Employment Act, 1944, or under or in pursuance of any other enactment; 7 & 8 Geo. 6. c. 15.

(*d*) to the extent to which he has sought alternative employment and the emoluments which he might have acquired by accepting other employment offered to him;

(*e*) to any provision made for payments to or in respect of him under the Superannuation Acts, 1834 to 1946, or the Superannuation Rules; and

(*f*) to all the other circumstances of his case.

(2) No award of compensation during any period until normal maximum retiring age shall be made under regulation 13 to a person who shall, if eligible to apply for alternative State employment, have neglected to apply for, or unreasonably refused, such employment.

Maximum rate of compensation until normal maximum retiring age.

16.—(1) Compensation (other than interim compensation) under these regulations during any period until normal maximum retiring age shall be an annual sum, not exceeding an amount calculated in accordance with the provisions of this regulation, and shall be payable as from the date on which the cause of the claim arises (or the date of the claim, if that is more than three months after either the date on which the cause of the claim arises or the date of coming into operation of these regulations, whichever is the later):

Provided that—

(*a*) in a case where interim compensation is payable, the date as from which compensation shall be payable under this regulation shall be the first day after the expiration of the period for which interim compensation is payable; and

(*b*) compensation shall not be payable under this regulation for any period after the death of the claimant.

(2) The said annual sum shall be payable in such instalments and at such intervals as the Minister may determine, and shall not exceed the aggregate of the following sums, namely:—

(*a*) for every year of the claimant's service, one sixtieth of his net emoluments or, in a case of diminution of emoluments, of the amount by which such net emoluments have been diminished; and

(*b*) in the case of a claimant over the age of forty-five years at the date on which the cause of the claim arises, a further one sixtieth of his net emoluments or, in a case of diminution of emoluments, of the amount by which such net emoluments have been diminished, for every year of service since he attained the age of forty-five:

Provided that the said annual sum shall not exceed two-thirds of the amount by which the annual rate of the claimant's emoluments after the loss or diminution (any percentage thereof which he may be liable to contribute under any pension scheme associated with his employment being disregarded, but regard being had to the emoluments specified in sub-paragraph (*d*) of paragraph (1) of the last preceding regulation and, in the case of an attributable loss of employment, to the compensation specified in sub-paragraph (*c*) (ii) of the said paragraph (1)) falls short of his net emoluments, so, however, that, if after the loss or diminution he has a degree of security of tenure in his employment which differs from that which he had before the loss or diminution, the annual rate of his emoluments after the loss or diminution may be treated for the purpose of this proviso as being adjusted by such proportion as appears to the Minister to be just.

(3) There shall be deducted from any payments made under this regulation in respect of any period in respect of which provisional payments have been made on account of compensation under the Compensation (Temporary Provisions) Regulations the amount of such

payments so far as they do not exceed the payments due under this regulation in respect of that period.

Persons in other employment under the Crown.

17. If a person receiving compensation under these regulations at any time obtains employment under the Crown (not being employment by virtue of which he is an absorbed person), he shall not, during any period for which he holds that employment, be entitled to receive any sum by way of compensation under any decision of the Minister given before he obtained that employment, but any such decision shall be suspended during that period, and the Minister shall make a new decision as to the compensation (if any) to be paid to him during that period.

Payments in respect of sickness, etc.

18. If a person receiving compensation under these regulations is in respect of any period before he has attained normal maximum retiring age entitled, whether by virtue of the Superannuation Rules or otherwise, to receive, under a pension scheme associated with employment by virtue of which he is an existing employee, any payments on account of incapacity, ill-health or disablement, the compensation to which he is entitled in respect of that period shall be reduced by the amount of any such payments received by him in respect of that period, so far as they do not exceed such compensation.

Non-pensionable employee over normal maximum retiring age.

19.—(1) Compensation (other than interim compensation) under these regulations in the case of a non-pensionable employee who has attained normal maximum retiring age shall be an annual sum not exceeding an amount calculated in accordance with the provisions of this regulation, and shall be payable from normal maximum retiring age for life:

Provided that—

(*a*) compensation under this regulation shall not be payable unless the Minister is satisfied that the claimant would in the normal course have continued in his employment for a substantial period beyond that age;

(*b*) in the case of a person over normal maximum retiring age before the date provided for the commencement of compensation in regulation 16, the compensation shall be payable as from that date.

(2) In the case of a person to whom paragraph (*b*) of the proviso to the last preceding paragraph does not apply, the rate of compensation under this regulation shall not exceed one half of the rate of the compensation payable to him under regulation 16 immediately before this regulation applied to him.

(3) In the case of a person to whom the said paragraph (*b*) applies, the rate of compensation under this regulation shall not exceed one half of the rate of compensation which would have been payable to him under regulation 16 but for his having attained normal maximum retiring age.

Pensionable employee over normal maximum retiring age.

20.—(1) In the case of an existing employee who, when last in employment by virtue of which he is an existing employee, had pension rights under a pension scheme associated with that employment (hereafter in these regulations called "a pensionable employee"), compensation (other than interim compensation) shall be payable to him for any period after he attains normal maximum retiring age, subject to and in accordance with the provisions of the next following paragraph.

(2) For the purpose of the last preceding paragraph—

(*a*) if the claimant, being a pensionable employee, has attained the age of forty years at the date on which the cause of the claim arises, the Minister may, for the purpose of assessing the compensation payable to him after normal maximum retiring age, credit him with additional years of service not exceeding one for each year of service between the date on which he attained the age of forty years and the date on which the cause of the claim arises, but not in any case exceeding ten years;

(*b*) if a claimant to whom additional years are so credited is entitled to receive payments from the Treasury in respect of his accrued rights in that pension scheme by virtue of the Superannuation Rules, the compensation under this regulation shall not exceed the additional pension which would have been payable to him by virtue of those rules if the additional years so credited to him had been taken into account in determining his said accrued rights;

(*c*) in the case of any other claimant to whom additional years are so credited, the compensation under this regulation shall not exceed the additional pension which would have been payable to him under that pension scheme had he continued to be subject thereto without receiving any increase in his emoluments (other than increases by way of increments under his salary scale) for the number of additional years so credited;

(*d*) compensation shall be payable under this regulation from normal maximum retiring age for life, except that, in the case of a person over normal maximum retiring age before the date provided for the commencement of compensation in regulation 16, the compensation shall be payable as from that date:

Provided that—

(i) the amount of the compensation calculated in accordance with this paragraph together with the amount of any payment in respect of accrued rights by virtue of the Superannuation Rules shall in no case exceed the maximum amount of the pension to which the claimant might have become entitled under the pension scheme had he continued to be subject thereto without receiving any increase in his emoluments (other than increases by way of increments under his salary scale) until attaining normal maximum retiring age;

(ii) in the case of a claimant (whether or not he has attained the age of forty years at the date on which the cause of the claim arises) who is not entitled to receive payments from the Treasury in respect of his accrued rights in that pension scheme by virtue of the Superannuation Rules for the reason that no persons having pension rights in that pension scheme become civil servants, the compensation under this regulation shall not exceed such payments (if any) as he would have been entitled to receive from the Treasury by virtue of those rules, if any such persons had become civil servants, together (in the case of a claimant to whom additional years are credited under this regulation) with the additional pension which would have been payable to him by virtue of those rules if those additional years had been taken into account in determining his said accrued rights;

(iii) a claimant who is in alternative State employment shall not be credited with additional years of service.

(3) Any existing employee, who is not in alternative State employment or a pensionable employee, and who either—

(*a*) applies to the Minister to be treated as a pensionable employee not later than the 5th July, 1949, or such later date as the Minister may in his discretion allow in any particular case, and proves to the satisfaction of the Minister within a reasonable time thereafter that he had enjoyed since not later than the 1st January, 1946, by customary practice or otherwise a reasonable expectation of receiving a pension from his employer on retirement; or

(*b*) when in employment by virtue of which he is an existing employee formerly had pension rights under a pension scheme associated with that employment, but has lost those rights since the 1st January, 1946;

may, in the discretion of the Minister and subject, in a case to which sub-paragraph (*b*) of this paragraph applies, to the provisions of paragraph (1) of regulation 22, be deemed to be a pensionable employee, and, if he is so deemed, his compensation under these regulations shall be assessed by the Minister as if he had been, or had remained, subject to a pension scheme at the time of the attributable loss of employment, and, in a case to which sub-paragraph (*a*) of this paragraph applies, as if paragraph (ii) of the proviso to paragraph (2) of this regulation applied to the pension scheme.

(4) If under the Superannuation Rules the Minister has at the request of a claimant, being a pensionable employee, paid a transfer value in respect of the claimant to the trustees or managers of any pension scheme or to any employer, no payment of compensation under these regulations shall thereafter be made to the claimant during any period after he has attained normal maximum retiring age.

Matters to be considered in assessing compensation after normal maximum retiring age.

21.—(1) For the purpose of determining whether any compensation, apart from any interim compensation, is payable to any person under these regulations during any period after normal maximum retiring age, and if so the amount thereof, the Minister shall have regard to the considerations set out in regulation 15, and also—

(*a*) to any pension rights enjoyed by the claimant under the pension scheme associated with any employment by virtue of which he is an existing employee, so far as those rights are still subsisting whether by virtue of the Superannuation Rules or otherwise; and

(*b*) (if he has suffered an attributable loss of employment) to any pension rights enjoyed by him under any pension scheme associated with any employment which he may have obtained in place of the employment he has lost; and

(*c*) (except where payment is made to the Minister in accordance with paragraph (1) of regulation 22) to any pension rights which he would have enjoyed under any pension scheme associated with employment by virtue of which he is an existing employee had he not accepted a payment therefrom in respect of his pension rights.

(2) No award of compensation during any period after normal maximum retiring age shall be made under regulation 13 to a person who shall, if eligible to apply for alternative State employment, have neglected to apply for, or unreasonably refused, such employment.

Further conditions for compensation after normal maximum retiring age.

22.—(1) Compensation shall not become payable to any person under regulation 20 or the next following paragraph of this regulation unless forthwith on his claim to compensation being accepted he pays to the Minister the amount of any payment received by him since the 1st January, 1946, in respect of his pension rights under the pension scheme to which he was last subject on his ceasing to be subject thereto:

Provided that the provisions of this paragraph shall be deemed to be satisfied if the said amount is paid into the Exchequer in accordance with the Superannuation Rules.

(2) Where a pensionable employee is eligible for consideration for the payment of compensation under regulation 20 and the amount of that compensation (if any) would, together with the amount of any superannuation benefits payable to him by virtue of the Superannuation Rules, be less than the compensation which could be paid to him under regulation 19 had he never had pension rights under any pension scheme, the Minister may, if he is satisfied that that person has, or would in the normal course have, continued in his former employment for a substantial period beyond normal maximum retiring age, pay him additional compensation not exceeding the amount of the difference:

Provided that in such a case the additional compensation may be calculated, in respect of any period for which that person could but for his being a pensionable employee have received interim compensation, by reference to that interim compensation, so, however, that additional compensation shall not be payable in respect of any period to which this proviso applies unless it is also payable in respect of a subsequent period.

(3) There shall be deducted from any payments made under regulation 19 or regulation 20 or the last preceding paragraph of this regulation in respect of any period in respect of which provisional payments have been made on account of compensation under the Compensation (Temporary Provisions) Regulations the amount of such payments so far as they do not exceed the payments due under regulation 19 or regulation 20 or the said last preceding paragraph in respect of that period.

Special provision for certain approved society pensioners.

23. In the case of any person in respect of whom the following conditions are fulfilled:—

(*a*) that he retired from an employment (hereafter in this regulation called " the said employment ") on a date after the 31st December, 1945, and upon such retirement became entitled to a pension under a pension scheme associated with the said employment, being a pension scheme in which on the appointed day no persons were interested other than persons employed or formerly employed by an approved society (including any branch thereof) transacting only health insurance business, or any separate section established for the purposes of the Health Insurance Act;

(*b*) that he is an existing employee or, if the said employment did not continue until the 1st August, 1946, he would have been an existing employee if it had continued until that date;

(*c*) that immediately before such retirement his emoluments included a bonus or other additional payment paid on account of war-time

conditions and not then consolidated with his emoluments (hereafter in this regulation called " war payments "), and no part of the pension to which he became entitled was in respect of war payments;

(*d*) that, if the society employing him had on the 1st August, 1946, consolidated war payments with the emoluments of persons then in their employment, he would under the pension scheme have been entitled to an increase in his pension in respect of war payments;

(*e*) that it is proved to the satisfaction of the Minister that the said society refrained from so consolidating war payments in such circumstances that their failure to do so is directly attributable to the passing of the Act;

that person shall, in respect of any attributable diminution of pension rights arising by reason of such failure to consolidate war payments, be eligible to have his case considered for the award of compensation in respect of that diminution, and the amount of such compensation shall not exceed the amount of the increase of pension to which he would have been entitled if the war payments had been so consolidated.

Payment of lump sum in certain cases.

24. Notwithstanding the previous provisions of this Part of these regulations, if the capital value of any annual sum which has been or might be awarded under those provisions, when added to the capital value of any payments in respect of accrued rights by virtue of the Superannuation Rules, does not exceed two hundred and fifty pounds, the Minister may in his discretion discharge his liability under these regulations by the payment of a lump sum representing the capital value of that annual sum.

PART V

Appeals

Right of appeal.

25.—(1) A claimant may, if he is dissatisfied with a decision of the Minister to which this regulation applies, within three months after the date on which he was notified of the decision require the matter to be referred to the tribunal, and the matter shall be referred accordingly.

(2) The decisions to which this regulation applies are decisions, whether on a claim or on a review (including a refusal to review) or on a claimant's obtaining employment under the Crown to which regulation 17 applies—

(*a*) to refuse compensation; or

(*b*) as to the amount of compensation.

(3) The Minister, when notifying any decision in respect of any of the matters referred to in paragraph (2) of this regulation to the claimant, shall inform him in writing of his right to require the matter to be referred to the tribunal.

(4) The tribunal shall consider any matter so referred in accordance with the provisions of these regulations, and shall determine whether the decision of the Minister shall be confirmed, reversed or varied, and the Minister shall give effect to the determination of the tribunal:

Provided that nothing in this regulation shall authorise any appeal on any question arising under sub-paragraph (*b*) of paragraph (3) of regulation 20 or under regulation 23 or 24, or on a refusal to review

after the expiration of the period of two years specified in sub-paragraph (*a*) or sub-paragraph (*b*), as the case may be, of paragraph (3) of regulation 14.

(5) The proceedings on any reference under these regulations to the tribunal shall not be deemed to be an arbitration to which anything in the Arbitration Acts, 1889 to 1934, applies.

Notices.

26. Any notice or notification which under the provisions of these regulations is, or is required to be, given to a claimant shall be deemed to have been given if it was sent by post to the last known address of the claimant.

Dated this 17th day of December, 1948.

James Griffiths,
Minister of National Insurance.

Wm. Hannan,
Joseph Henderson,
Two of the Lords Commissioners of His Majesty's Treasury.

EXPLANATORY NOTE

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

These Regulations provide for the payment of compensation out of the National Insurance Fund for loss of employment, or loss or diminution of emoluments or pension rights, to full time employees of approved societies, bodies administering the affairs of approved societies, and bodies administering special schemes under section 73 of the Unemployment Insurance Act, 1935. The loss or diminution must be directly attributable to the National Insurance Act, 1946.

To be eligible for compensation, a claimant must have been in such employment, after attaining the age of eighteen years, from the 5th July, 1940, up to the 5th July, 1948 (or the date of the cause of the claim, if earlier): in addition, a claimant in approved society employment must show that he was not wholly or mainly employed on business other than health insurance business during one of two alternative periods, whichever is more favourable to him, viz.:—either during the period from the 5th July, 1940, to the 31st July, 1946, or during the period from the 1st August, 1944, to the 31st July, 1946 (regulation 2). If a claimant loses his employment and (if eligible) applies for and does not unreasonably refuse employment in the Civil Service, he will be eligible for "interim" payment of two-thirds of his net emoluments, with deductions if he gets other employment or unemployment benefit, for a period of up to three months (regulation 12). During this period his compensation will be assessed. Compensation, whether for loss of employment or for loss or diminution of emoluments, will be payable to a claimant up to the age at which he would under his pension scheme have been expected to retire from his employment, or, if there is no such age, up to age 65 (60 in the case of a woman), and it will be subject to a maximum based on his net emoluments, the length of his service and the extent of his loss (regulation 16). The actual award in any

particular case will have regard to the circumstances set out in regulation 15, including any other emoluments which have been or could have been obtained. The award remains subject to review (regulation 14), but a review will not normally be made after two years except where the claimant has entered the Civil Service or in cases of error or fraud. Where the claimant would normally have continued in his old employment after age 65 (60 in the case of a woman) and had no pension rights, the award may be continued after that age at half rate (regulation 19).

Provision is made under the National Insurance and Civil Service (Superannuation) Rules, 1948, for a claimant who had any pension rights under a pension scheme in his old employment to have his accrued rights as at the time of the loss of that employment fully preserved. The present regulations make provision for the award of compensation in respect of a loss or impairment of opportunity to earn further pension. Such compensation is based on length of service after age 40 and is granted by way of a credit of added years of pensionable service (regulation 20).

Overlap with earnings from subsequent employment under the Crown is avoided (regulation 17). The regulations also make provision with regard to appeals from decisions of the Minister to tribunals appointed by the Minister of Labour and National Service (regulation 25).

8. CONTRIBUTIONS

[Collection of Contributions, *see* NATIONAL INSURANCE AND INDUSTRIAL INJURIES, p. 3037 below.]

The National Insurance (Contributions) Regulations, 1948

1948 No. 1417

Made - - - -	*29th June,* 1948
Laid before Parliament	*30th June,* 1948
Coming into Operation	*1st July,* 1948

M.N.I. 118.

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 2 (5), 4 (4), 5, 8 and 61 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.

PART I

General

1.—(1) These regulations may be cited as the National Insurance (Contributions) Regulations, 1948, and shall come into operation on the 1st July, 1948. Citation, commencement and interpretation.

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

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

" the Industrial Injuries Act " means the National Insurance (Industrial Injuries) Act, 1946; 9 & 10 Geo. 6. c. 62.

" the Minister " means the Minister of National Insurance;